THE URBAN INSTITUTE 2100 M STREET, NW WASHINGTON, DC 20037

Don Spencer
Senior Contracts Administrator
Office of Grants, Contracts and Pricing

Direct Dial: 202.261.5396
Facsimile: 202.728.0231
E-mail: dspencer@urban.org

April 29, 2011

Sherran Thomas
Office of Justice Programs
810 Seventh St. NW
Washington, DC 20531

RE: Final Report
"Collecting DNA from Juveniles"
(Contract # GS-23F-8198H, OJP Delivery Order # 2008F_08163)
(Urban Institute Project Number 08322-003-00)

Dear Ms. Thomas:

The Urban Institute is pleased to submit its final report for the above mentioned contract entitled "Collecting DNA from Juveniles." In addition to the consolidated report, which includes the required summary and methodology sections, we have included an annotated bibliography as well as a memorandum responding to the comments from the peer reviewers. We are depositing data to NACJD according to NIJ's data archiving requirements.

Should you have of technical nature, please direct them to Julie Samuels at (202) 261-5592. Questions of a contractual nature should be directed to the undersigned at (202) 261-5396.

Sincerely,

Don Spencer

Don Spencer

FINAL REPORT April 2011

Collecting DNA from Juveniles

Submitted to:

National Institute of Justice
Office of Justice Programs
U.S. Department of Justice

By:
Julie E. Samuels
Allison M. Dwyer
Robin Halberstadt
Pamela Lachman

Prepared for the Department of Justice, Office of Justice Programs, Grants Policy Office

URBAN INSTITUTE
Justice Policy Center

URBAN INSTITUTE
Justice Policy Center

2100 M Street NW
Washington, DC 20037
www.urban.org

This report was prepared for the Department of Justice, Office of Justice Programs Order # 2008F_08163.

Acknowledgments

Collecting DNA from Juveniles benefited greatly from the assistance of many people. In particular, the authors wish to thank the representatives from the state CODIS labs who agreed to be interviewed for this project, provided data, and reviewed their state summaries. In addition, we appreciate the assistance of state criminal and juvenile justice professionals interviewed for this project. We also thank the federal officials and other experts we consulted from the forensic and juvenile justice communities, including those who participated in the meeting convened for this project.

We offer special thanks to the National Institute of Justice, whose funding made this project possible, particularly our grant monitor, Louis Tuthill.

The authors are especially grateful for the advice and expertise provided by Susan Johns, of Susan Johns Forensic Consulting, who served as a consultant to the Urban Institute on this project. We also thank Nancy La Vigne, Director of the Justice Policy Center at the Urban Institute, who served as a senior advisor on the project. Finally, we thank Hannah Dodd and Kelly Walsh for reviewing this report.

Although we appreciate the contributions of those noted above, and any others inadvertently omitted, the authors take responsibility for any errors contained in the report.

Executive Summary

Collecting DNA from Juveniles, prepared by the Urban Institute (UI) for the National Institute of Justice (NIJ), examines the laws, policies, and practices related to juvenile DNA collection, as well as their implications for the juvenile and criminal justice systems. DNA evidence has proven valuable in helping to solve crimes, motivating a concerted effort to expand the categories of offenders who must provide DNA samples for analysis and inclusion in the Combined DNA Index System (CODIS), the FBI-operated national database. Increasingly, states have required juveniles, mostly those adjudicated delinquent but also some arrestees, to submit DNA samples. While some people have voiced objections to requiring juvenile DNA collection, there generally has been very little consideration given to how the laws should address the special circumstances and protections associated with juvenile offenders.

Although 30[1] states have laws authorizing the collection of DNA from juveniles, little is known about the implementation of these laws or how existing procedures have been applied to juveniles. As a result, policymakers and practitioners lack guidance on how well these laws are working or on how to improve laws and practices.

In an effort to fill this gap in knowledge, this report considers the following questions:

1. How have state agencies, including juvenile justice agencies and state laboratories, implemented juvenile DNA collection laws?
2. What are the number and characteristics of juveniles with profiles included in CODIS?
3. How have juvenile profiles in CODIS contributed to public safety or other justice outcomes?
4. What improvements to policies and practices should be made?

To examine these questions, UI researchers: (1) systematically reviewed all state DNA statutes; (2) conducted semi-structured interviews with CODIS lab representatives in states that collect DNA from juveniles to understand how the laws were implemented; (3) collected and analyzed descriptive data provided by these labs on the volume and characteristics of juvenile profiles in CODIS; (4) conducted semi-structured interviews with juvenile and criminal justice stakeholders in five case study states; and (5) convened a meeting of federal officials and experts from the forensic and juvenile

[1] Every state except Hawaii collects DNA from some category of juveniles; however, 19 states collect only from juveniles convicted of an offense in the adult criminal court, while 30 states authorize DNA collection from juveniles processed in the juvenile justice system. These 30 states are the focus of this report.

justice communities to explore the broader impacts of juvenile DNA collection. These research tasks were conducted between October 2008 and September 2010.

This report synthesizes and analyzes the information collected from these multiple sources. It is important to note, however, that while the majority of states collect DNA from juveniles, we cannot fully quantify the number and characteristics of juveniles whose DNA profiles states upload to CODIS or empirically assess the impact of this DNA collection on public safety. Our analysis was limited by the data that laboratories were able to provide to us. This study does highlight the way in which juvenile collection laws and procedures have been grafted onto existing systems intended for collection from adults, an approach that does not account for the special features of the juvenile justice system.

Our findings can be summarized as follows:

- **Legal frameworks vary by state.** Thirty states collect DNA from juveniles, for offenses ranging from all felonies plus some misdemeanors to selected felonies only, and at several different stages of the justice process. In most states, qualifying offenses for juvenile and adult offenders are identical, but DNA collection laws applying to arrestees are less likely to cover juveniles.

- **DNA expungements are rare.** All states have provisions for expunging DNA profiles and samples, but few expungements actually occur. In most states, expungement is not automatic; instead, the burden falls on an eligible offender to request expungement and provide required documentation.

- **Juvenile records expungement does not trigger DNA profile expungement.** Typically, authorization to expunge an individual's juvenile record is insufficient to trigger DNA expungement, and these provisions are generally not linked or coordinated. Inconsistent thresholds for expungement can result in a DNA profile remaining in CODIS without a corresponding juvenile record.

- **Coordination challenges exist between labs and juvenile justice agencies**. As part of their quality control procedures, e.g., confirming qualifying offenses, laboratories need to coordinate with juvenile justice agencies, but these relationships typically are not institutionalized. This presents challenges for laboratories because juvenile records, unlike adult criminal records, are often not easily available to laboratories and those outside the juvenile justice system.

- **Laws and implementation policies may be ambiguous.** While some state laws and policies clearly specify agency roles and responsibilities, imprecise or vague laws and procedures in other states have led to confusion, hindering effective implementation of juvenile collection laws.

- **Ensuring collection from all eligible offenders can be difficult.** If multiple agencies have collection responsibilities but no one agency has overall responsibility

for implementation, it is difficult to know whether all of the required samples are collected.

- **Number and characteristics of juvenile profiles in CODIS cannot be quantified.** Only ten of the 30 states that collect DNA from juveniles were able to provide meaningful data on juvenile profiles in state or national databases. DNA profiles uploaded from the ten respondent states represented 42 percent of the total number of profiles uploaded to CODIS from all states that collect juvenile DNA. In these ten states, juvenile profiles accounted for six percent of all DNA profiles submitted. States that were unable to provide these data offered three main explanations: juveniles could not be distinguished in the database; information on juveniles was collected, but the summary descriptive information could not be extracted from the database; or extracting the information was possible but would impose too great a burden on laboratory staff time and resources.

These findings point to a number of policy implications and recommendations regarding juvenile DNA collection for state and federal policymakers as well as state CODIS laboratory staff. Policymakers should:

- Consider (or re-consider) whether juveniles should be treated differently with respect to the scope of DNA collection, particularly for arrestee laws.

- Examine whether expungement policies are working as intended and consider ways to disseminate information about expungement standards and procedures.

- Align standards for expunging DNA profiles with standards for expunging juvenile records.

- Draft laws and policies that clearly delineate agency roles, responsibilities, and relationships in the areas of compliance, collection, quality control, and expungement.

- Address how DNA collection laws interact with existing juvenile justice laws and practices and modify procedures to account for differences between juvenile and adult systems, including by developing stronger relationships between labs and juvenile justice agencies.

- Recognize that without additional resources, labs cannot expand the scope of qualified offenders and address their backlogs.

- Monitor changes in the collection and use of DNA that could have implications for juveniles.

- Encourage labs to compile and publicize basic aggregate descriptive data associated with CODIS profiles, which could improve oversight of the laws and facilitate future research.

Table of Contents

Introduction

This report, prepared by the Urban Institute (UI) for the National Institute of Justice (NIJ), focuses on the processing[1] of DNA samples collected from juveniles—including alleged (arrested) and adjudicated delinquents. State requirements for DNA collection, which initially focused on adult offenders convicted of sexual or violent offenses, have expanded to include other categories of convicted felons, convicted misdemeanants, arrestees, and juveniles. In 30 states, certain categories of juveniles handled in the juvenile justice system must now provide DNA samples. The laws governing which samples must be collected and the circumstances in which they are eligible for expungement are summarized in Appendices A and B. State crime labs analyze these samples and then upload the resulting electronic DNA profiles into state and national DNA databases through CODIS (Combined DNA Index System), the FBI-operated database software system. Known offender profiles are compared to unknown profiles created from forensic evidence from unknown sources, typically collected during the course of an investigation, to identify potential suspects and aid in investigations.

This study was designed to explore the practice and implications of collecting DNA from juveniles and to address the following questions posed by NIJ:

1. How have state agencies, including juvenile justice agencies and state laboratories, implemented juvenile DNA collection laws?
2. What are the number and characteristics of juveniles with profiles included in CODIS?
3. How have juvenile profiles in CODIS contributed to public safety or other justice outcomes?
4. What improvements to policies and practices should be made?

To examine these questions, UI researchers employed several complementary data collection methods: (1) conducting a detailed review of relevant laws; (2) interviewing state CODIS laboratory staff to determine policies, procedures, and challenges they have confronted; (3) collecting descriptive data from the state labs; (4) interviewing criminal and juvenile justice stakeholders in selected states; and (5) consulting with federal officials and other forensic and juvenile justice experts, including those who participated in a project meeting, to develop a more comprehensive understanding of the ramifications of juvenile DNA collection and potential areas for improved practice.

[1] Throughout the report, the term “DNA processing” is used. The term “processing” has no standard definition within the juvenile or forensics communities, and is used in this report to indicate the entire process beginning with the collection of DNA and ending with the inclusion, or upload, of a profile into CODIS.

This report first presents background information about DNA collection and the juvenile justice system, describing prior research examining DNA database effectiveness, and briefly discussing some of the distinctive features of the juvenile justice system. We then turn to a review of the research methods employed for the current study, followed by a discussion of the study's findings, including: requirements for juvenile DNA collection and expungement in state laws; lessons learned concerning implementation policies and practices; and available information about juvenile profiles included in CODIS. The report concludes with a summary of policy implications and recommendations regarding the collection, use, and expungement of DNA collected from juveniles.

What is CODIS?[a]

The **Co**mbined **D**NA **I**ndex **S**ystem (CODIS) is a software program that houses and compares the DNA databases of local, state, and national law enforcement laboratories. It is managed at the national level by the FBI, and managed locally by state CODIS indexing laboratories. There are three levels of indexing systems under CODIS: the Local DNA Index System (LDIS), the State DNA Index System (SDIS), and the National DNA Index System (NDIS). Each level of CODIS contains electronic DNA profiles from known offenders (including arrestees and juveniles), crime scene samples (referred to as forensic samples), and missing persons. CODIS compares DNA profiles to determine whether there are any matches to offenders or crime scenes across the country. The identification of two matching profiles is known as a "hit".

The DNA profiles uploaded contain information about 13 loci which provide enough specific information to distinguish between individuals, but say nothing about the physical characteristics of the individual from whom the DNA was collected (e.g. hair color, medical predispositions, or race). While not guaranteed to be unique, DNA coded at all 13 loci has a 1 in 100 trillion chance of matching multiple individuals (Butler 2009). Access to CODIS offender, forensic, and hit information is strictly limited to law enforcement purposes, with stiff penalties for unauthorized disclosure.

[a] Description adapted from Nelson (2010).

Background

The inclusion of juvenile DNA collection provisions in state and federal laws has occurred in the context of law enforcement's increased reliance on DNA evidence and the overall expansion of qualifying offenses and offenders for DNA databases. While some have voiced objections to requiring juveniles to provide DNA samples (ACLU 2003, National Association of Criminal Defense Lawyers 2004), there generally has been very little consideration given to how the laws should address the special circumstances and protections associated with juveniles involved in the justice system.

Before examining how juvenile DNA collection operates, it is essential to understand the structure of the US national database and the mechanisms through which a DNA profile enters the national database. As detailed in the above textbox, CODIS is a software program that houses and compares electronic DNA profiles from local, state, and national forensic laboratories. There are three levels of indexing systems under CODIS: the Local DNA Index System (LDIS), the State DNA Index System (SDIS), and the National DNA Index System (NDIS). At each level, laboratories can enter electronic

profiles generated from physical DNA samples, including both samples collected from known offenders (including arrestees, juveniles, and those convicted of crimes), forensic evidence from investigations, and DNA from missing persons. State law determines the categories of offenders collected at the state level. Federal law and FBI regulations set the standards for profile content and eligible offender categories for upload to NDIS for interstate searches. In 2004, federal law expanded eligibility beyond convicted offenders, allowing juveniles to be uploaded to NDIS, and in 2006 all qualifying offenses and offender types authorized by state law (including arrestees), became eligible for inclusion in NDIS. Prior to 2004, the FBI barred the uploading of juvenile profiles to NDIS, though states were able to generate and maintain these records at the SDIS and LDIS levels. As of March 2011, NDIS contained over 9,535,059 offender profiles and 366,762 forensic profiles (FBI 2011).

Initially, state legislators included only sexual and violent offenders in DNA database collection laws due to the greater likelihood that forensic evidence (e.g., blood or semen) would be transferred during the commission of these crimes (Hibbert 1999). However, after recognizing that DNA may be deposited and recovered at many different types of crime scenes, and that many offenders commit crimes repeatedly but do not specialize in one type of offense, states began to expand their laws to require DNA collection for a wide array of offenses (Bieber 2006). A growing consensus emerged that databases would have a more significant, positive impact on solving and preventing crimes if they were more comprehensive. The federal government has encouraged and supported DNA database expansion, largely in the form of funding for state laboratories to process the growing volume of forensic evidence and offender DNA samples (Nelson 2010).

Many decisions to expand DNA sample collection were made, however, without the benefit of rigorous research on the effectiveness of DNA evidence and databases. In recent years, researchers have begun to study how DNA is used in criminal investigations and its potential effects on public safety and offending. In a controlled experiment in five cities, Roman et al. (2008) found that DNA evidence could be valuable to law enforcement in solving property crimes. A study of investigators' use of DNA evidence in homicide cases in Manhattan, however, indicated that, outside of a controlled experiment, DNA evidence may not be tested and incorporated into investigations prior to cases being cleared and therefore may not contribute to solving violent crimes (Schroeder and White 2009). Recent research in the state of Florida exploring the role of DNA databases in preventing crimes by deterring criminal behavior suggested that DNA databases have a very small deterrent effect for individual offenders, although DNA databases have significant probative value to law enforcement and prosecutors in solving crimes and securing convictions (Bhati 2010). Other researchers suggest that, because the expansion of DNA collection laws could create significant delays in uploading profiles to CODIS, offenders might not actually face any greater risk of detection or immediate apprehension (Taylor et. al. 2007).

In the United States, state laboratory databases are often not designed to generate summary reports on demographic or offense characteristics of individuals with DNA

profiles.[2] This lack of data has limited the field's ability to understand the outcomes of CODIS hits, and, ultimately, the extent to which DNA databases aid investigators in solving crimes and clearing cases. Consequently, policymakers and researchers face challenges in developing a comprehensive understanding of the nature and impact of DNA database inclusion and expansion.

The growing reliance on DNA evidence and collection has sparked competing perspectives on the risks and benefits of collecting and using DNA in the criminal justice system. Some critics argue that the expansion of DNA collection, particularly from arrestees, threatens legal and constitutional rights, raising privacy and fourth amendment concerns (Krimsky and Simoncelli 2011), while others cite the disproportionate effects expanded collection efforts can have on minorities due to widespread overrepresentation of minority groups in the justice system (Huizinga et al. 2007). Advocates for expanding DNA collection efforts challenge the privacy concerns, emphasizing the protections built into CODIS, including the exclusive criminal justice use of DNA profiles and penalties for unauthorized disclosure. They also emphasize the potential benefits of preventing and solving crimes. (Wickenheiser 2004, DNA Resource,)

Historically, the juvenile justice system was developed to protect children and treat them differently than adults. The system has focused on rehabilitation – and second chances – over punishment and has provided additional protections to minors. Even the terminology used in the juvenile system is different. A juvenile, defined as a youth whose age is equal to or below the upper age of original juvenile court jurisdiction, is not "convicted" but is instead "adjudicated delinquent" (or simply "adjudicated") if processed in juvenile or family court. A juvenile transferred to adult court, however, may be "convicted." Each state operates its own juvenile justice system. The upper age of juvenile court jurisdiction varies by state but is generally 17 (37 states plus DC) or 16 (11 states), with two states now setting the age at 15. There are numerous exceptions to these age criteria that permit or require juveniles under the upper age to be handled in criminal (adult) court, though all states have some provision to allow some juveniles to enter the adult criminal court (OJJDP 2010; Campaign for Youth Justice, 2011).

A key component of the rehabilitative focus of the juvenile system has been the treatment of juvenile records. In many states, access to juvenile court records is limited, and juveniles are able to expunge (or seal) the records of their adjudication after a certain number of years if they stay out of the juvenile or criminal justice system (Kimmelman 2000). However, in response to concerns about juvenile crime, some of the juvenile protections eroded in recent decades, blurring the differences between the juvenile and adult systems (Butts and Mitchell 2000). States have allowed juveniles to be fingerprinted and photographed upon arrest, and a larger proportion of juveniles have been transferred to adult court for prosecution (Fagan 2008). Some researchers

[2] In the United Kingdom, the government publishes an annual report on the national DNA database and obtains a wealth of data on the number and types of offenders with profiles in the database and the number and types of crimes DNA database hits help to solve.

have pointed to juvenile DNA collection and use as an example of the trend toward a more punitive juvenile justice system (Buck Willison et al. 2010). [3]

The utility of collecting DNA from juveniles for inclusion in the database depends on their likelihood of re-offending, which appears to be lower than for adults. Many behavioral theorists and researchers conclude that a small (potentially life-course persistent) group of juveniles may continue to offend throughout adulthood, but that most juveniles will desist from crime (Moffitt 1993; Gottfredson and Hirshi 1990; Sampson and Laub 2003; Mulvey 2011). In a supporting study, Snyder and Sickmund (2006) found that of juveniles who offend when 16 or 17, only one quarter re-offended at ages 18 or 19; those most likely to re-offend were those who had been held in state detention. Much is unknown, however, about the demographic characteristics of re-offending juveniles and the types of offenses they commit, and it can be difficult to predict when or how they will re-offend (Sampson and Laub 2003).

Despite the differences between juvenile and adult offender populations and systems, many states have added juveniles to DNA database statutes without special provisions that reflect their unique status as minors. This study explores the content and implementation of these juvenile DNA laws, and discusses various practical and policy implications for the juvenile and criminal justice systems.

Methodology

In order to determine the extent of juvenile DNA collection and inclusion in state and federal databases, UI researchers systematically reviewed all state DNA statutes and identified 30 states that collect DNA from juveniles handled in the juvenile justice system as of May 2010. Additional data collection activities included semi-structured interviews with representatives of state CODIS labs in 29 of these states to determine how policies and practices are implemented, and a data request for descriptive statistics on juvenile and adult profiles in CODIS from these labs in an attempt to characterize juvenile profiles in CODIS. Researchers also conducted semi-structured interviews with four to seven criminal and juvenile justice stakeholders in each of five states[4] selected for a case study to gather more in-depth information about implementation practices, cross-agency collaboration, and impacts of juvenile DNA processing. In addition to consulting with outside experts, researchers convened a meeting with federal officials and experts from the forensic and juvenile justice communities to discuss preliminary findings and explore the implications of juvenile DNA collection, upload to CODIS, and use.

This study focuses on states that collect DNA from youth handled in state juvenile justice systems, primarily juveniles adjudicated delinquent, along with some juvenile arrestees. As a result, those states that **only** collect DNA from juveniles tried as adults

[3] It is worth noting that this trend appears to be moderating, with states reconsidering their age of majority and policies for transferring juveniles to adult status (OJJDP 2010; Campaign for Youth Justice, 2011).
[4] Stakeholder interviews were conducted in Arizona, Florida, Illinois, Kansas, and Texas.

were excluded. In states collecting from “Youthful Offenders,” only those states in which the term applied to juveniles processed in juvenile or family courts were included. The study sought to identify differences between adult and juvenile DNA collection, upload, and use. Juveniles processed in the juvenile justice system are typically afforded additional legal protections and interact with specialized courts, probation, and detention entities. When juveniles are prosecuted in the adult system, they are treated like their adult counterparts, and there is little reason to expect differentiated treatment for purposes of DNA processing. Moreover, criminal justice agencies are often unable to isolate juveniles tried as adults in their data systems. The data request sent to states emphasized our preference for information about juveniles handled in the juvenile system, but states with database systems that could not distinguish juvenile from criminal court jurisdiction were permitted to provide data for youth at or below the state’s upper age of juvenile jurisdiction, or below 18.

UI researchers used qualitative data analysis software to systematically review responses from interviews with laboratory staff and stakeholders. Analysis of the requested quantitative data about the characteristics of individuals with profiles in CODIS, however, was limited by the incomplete statistics provided by many of the state laboratories. CODIS administrators in these states were unable to provide complete information on juvenile profiles, especially aggregate demographic data on gender, race, ethnicity, and offense type. When questioned, laboratory representatives indicated that demographic data on juveniles were not recorded upon collection, were not uniformly entered into databases, or could not be extracted from databases without posing a significant burden on lab resources. In addition, laboratory staff reported three problems with reporting data on juveniles generally: juveniles could not be distinguished from adults in the database, juvenile status was collected but summary descriptive statistics could not be generated, or the work of isolating juveniles would pose an excessive burden on laboratory staff and resources. See *Appendix C* for a more detailed methodology section and to review the interview protocols and data request form used in this project.

Understanding Laws, Policies, and Practices

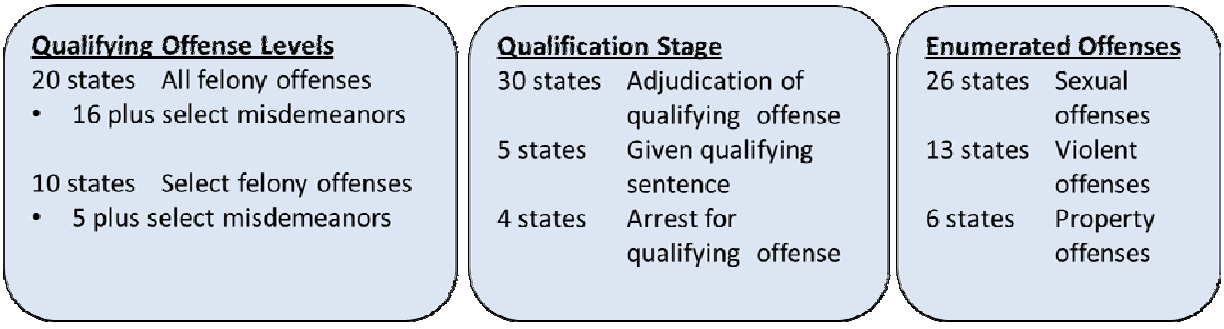
This section synthesizes the information collected from the legislative review, interviews with lab staff and juvenile and criminal justice stakeholders about juvenile DNA collection, analysis, use, and expungement policies, and the descriptive data obtained from the state CODIS labs. The discussion of the laws, which highlights the variance across states and some of the legal challenges encountered, is followed by an overview of the collection and processing procedures, which describes how the laws operate in practice, identifies some of the challenges experienced by the states, and explores the differences between collecting DNA from juveniles and adults. Issues regarding the expungement of DNA profiles are separately examined. Supplementary comments from non-laboratory stakeholders are also discussed, followed by a summary of implementation lessons learned and an analysis of descriptive data obtained from state CODIS labs.

Requirements for Juvenile DNA Collection

Each state determines the nature and extent of juvenile DNA processing under its jurisdiction, and laws vary widely both in substance and specificity. The legislative review found that every state except Hawaii collects DNA from some category of juveniles; 19 states collect only from juveniles convicted of an offense in the adult criminal court, while 30 states authorize DNA collection and upload to CODIS from juveniles processed in the juvenile justice system.[5] *Appendix D* summarizes the laws, practices, and lessons learned from each of these 30 states, which are the focus of our study.

Of the 30 states collecting DNA from juveniles, only 13 specify different sets of qualifying offenses for adults and juveniles. States that specify different juvenile offenses do not necessarily authorize fewer qualifying offenses for juveniles than adults or authorize fewer qualifying offenses than states that do not make a juvenile/adult distinction. For example, of the 16 states that collect juvenile DNA from the broadest range of qualifying offenses (all felonies and several types of misdemeanors), four also had juvenile-specific legislation.

Figure 1 Overview of State Juvenile DNA Laws



Note: Categories in qualification stage and enumerated offenses boxes are not mutually exclusive.

Figure 1 provides an overview of state laws regulating the collection of DNA from juveniles. States determine the scope of collection based on a combination of the stage of criminal justice processing and offense type. Twenty-five states authorize collection only for juveniles adjudicated delinquent for legally specified qualifying offenses, while five states use a combined system of qualifying offenses and sentence-based qualifications[6] in which DNA is collected from either all adjudicated juveniles sentenced to a detention facility or a subset of those with sentences of a specified length. In practice, however, almost all qualifying juveniles in the five states with sentence-based

[5] As of August 2010, New Hampshire no longer collects DNA from juveniles but is included among these 30 states because, at the time of the data collection and analysis for this study, New Hampshire was collecting DNA from juveniles.
[6] New Jersey, Texas, California, Massachusetts, and Illinois employ a sentence-based model.

systems have been adjudicated for felony offenses. Four states[7] collect DNA from juveniles arrested for specified offenses, although the vast majority of states (82 percent) that collect DNA from arrestees[8] exclude juvenile arrestees. Federal law authorizes collection from arrestees and detainees, which may include juveniles.[9]

Among the offense-based authorization laws, 20 states collect DNA from juveniles adjudicated delinquent for any felony offenses, while ten only collect DNA from juveniles for a subset of felony offenses enumerated in the authorization law. Among these ten states, all ten include sexual offenses, five include select violent offenses, and only one includes property offenses as qualifications for DNA collection. Twenty-one states also include some misdemeanor offenses in their authorizing legislation, most of which are sexual or violent in nature. For a detailed state-level overview of authorization laws, see *Appendix A*.

Legal Challenges

Successful challenges to state laws authorizing the collection of DNA from juveniles have occurred in Minnesota[10] and Maine.[11] In Maine, the original 1996 law authorized collection from "juveniles convicted" and was incorrectly interpreted to include adjudicated juveniles; in 2004, the law was amended to include language authorizing collection from adjudicated juveniles. In 2006 in Minnesota, a juvenile arrestee successfully challenged the law authorizing collection of DNA from juvenile and adult arrestees as an illegal search and seizure and violation of the fourth amendment. As a result, arrestee DNA samples in Minnesota were expunged and are no longer collected. As of May 2010, authorization laws had been unsuccessfully challenged at the state level in six states,[12] and challenges are pending in Arizona. In states where there are ambiguities in the authorizing law, legal authorities have generally interpreted ambiguities as allowing broader collection activities.[13]

Recent Changes in New Hampshire

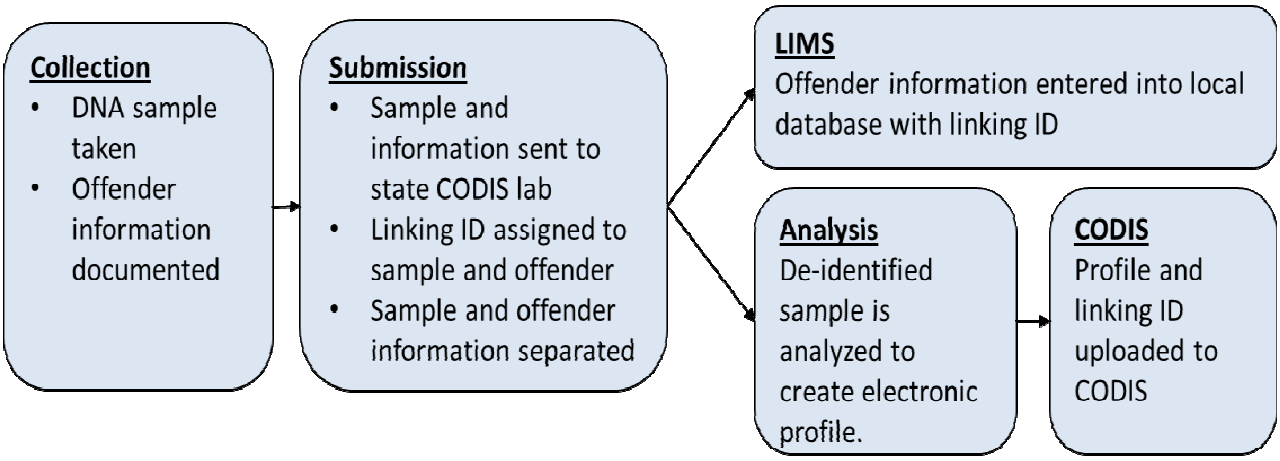
The Governor of New Hampshire signed House Bill 523 into law in June 2010, expanding adult offender DNA collection to include all felony offenses and removing juveniles from the DNA collection statute altogether. These changes reflect a legislative compromise to expand adult DNA collection while discontinuing juvenile DNA collection. New Hampshire is the first state in the country to stop collecting DNA from juveniles voluntarily (i.e., without being subject to a legal challenge).

[7] Arizona, Kansas, Louisiana, and Michigan currently collect from arrested juveniles, and Ohio has pending legislation to do so.
[8] In 2010, 22 states collected DNA from arrestees.
[9] "DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction; Department of Justice 28 CFR Part 28; Final rule," 73 Federal Register 238 (10 December 2008), pp 74932-74942.
[10] In the Matter of the Welfare of: C.T.L., Minnesota Court of Appeals, A06-874, File No. J4-05-52203, 10/10/06, the Minnesota DNA arrestee statute violates the Fourth Amendment.
[11] §1574 Maine Revised Statutes 25.
[12] Massachusetts, New Hampshire, New Jersey, Virginia, Kentucky, and Illinois.
[13] This was the case in Alabama and New Hampshire, where the scope of juveniles inclusion was not explicitly laid out in the law but clarified by a written legal opinion by the Attorney General.

DNA Collection and Processing Procedures

This section describes how the juvenile DNA collection laws operate in practice, based on interviews with state CODIS lab staff and other stakeholders. The section identifies some of the implementation challenges encountered and the ways in which states have sought to overcome the challenges. Figure 2 provides a basic map of collection, analysis, and upload, though the details of each step vary by state. Given the differences between the juvenile and adult criminal justice systems, one might expect differentiated procedures for collecting, analyzing, storing, confirming, and uploading DNA samples. However, as described below, basic procedures are not typically tailored for juveniles, although some adaptations have been made.

Figure 2: Basic DNA Database Collection, Analysis, and Upload Process



Point of Collection

Collection agencies and methods vary across states, based in part on differences in authorization laws—i.e., whether collection is required when the juvenile is arrested, adjudicated, or detained. Specific collection agencies or procedures are commonly promulgated in state administrative rules or lab regulations rather than detailed in law. In general, state labs have responsibility for analyzing offender samples and they typically set the policy and requirements for sample collection. In each state, labs reported distributing collection kits to multiple justice agencies, including law enforcement, juvenile and adult courts, probation and parole offices, detention facilities, and other agencies responsible for collection. Collection kits generally included a buccal swab and collection paper, materials for collecting blood samples where applicable, and a sample collection card with identifying information, such as name, state ID number and fingerprint, details of the offense, and collecting agency.

In speaking with laboratory officials, juvenile detention agencies were named most regularly as key collection agencies in the states; labs in 25 states reported sending collection kits to juvenile detention agencies, though other agencies also collected juvenile DNA in most states. Conversations with detention officials in our five

stakeholder states provided some additional details about different collection models in such facilities. Three of the four case study states that collected DNA from juveniles adjudicated for any felony offense collected samples at intake in the detention facility, as nearly all juveniles who were booked also qualified for DNA collection. For the state that limited collection to a subset of felony offenders, detention agencies identified individuals with qualifying offenses at intake and took DNA samples in conjunction with fingerprinting.

In 13 states, community supervision agencies collect DNA from juveniles. In some of these states, the community supervision agency is not the primary collection agency but is instead responsible for collecting DNA from juveniles if samples are not collected by the primary collection agency. Typically, community supervision agencies collect from youth who commit a qualifying offense but receive an alternative-to-incarceration sentence (e.g., probation). In other states, supervision agencies are responsible for collecting DNA from juveniles who enter the state via the Interstate Compact agreement (i.e., youth who committed qualifying offenses in one state but are under supervision in another due to a family relocation or other such circumstances).

In states with arrestee collection laws, law enforcement plays a larger role in DNA collection. However, several of these states' collection agencies reported confusion in the process, as law enforcement agencies were not clearly communicating whether samples had been collected, which is critical information when collection can occur at multiple stages. Some states utilize a flag in the criminal history field of their electronic database to prevent duplicate collection, though lab directors and case study stakeholders in all but one of the arrestee states reported difficulties accessing juvenile records to add such flags.

DNA Processing

Once collected, the physical DNA sample and collection card containing identifying information are returned to CODIS labs for analysis and upload. For purposes of this report, the term processing is being used to denote the whole process from collection to upload to CODIS. Upon receipt, the lab separates the sample from identifying information. Identifying information is typically entered into a stand-alone laboratory-hosted database (often referred to as LIMS – Laboratory Information Management System), while DNA profiles are entered into CODIS with only a lab-assigned number to link the sample to identifying information, specimen category, and the laboratory and personnel responsible for upload. These two databases are maintained separately, and information can only be linked using the number assigned by the laboratory upon receipt.

Many state labs have a method for flagging DNA profiles that belong to juveniles. Thirteen states identify samples received from juveniles in their laboratory-level data system, with varying levels of sophistication, while other laboratories are only able to identify juveniles using the date of birth and date of collection - which does not distinguish between juveniles tried in juvenile and adult courts. In many of these states, the dates are not systematically maintained or are stored electronically in non-searchable fields.

CODIS allows states to upload juvenile profiles using a juvenile specimen category. For the most part, states only used this optional category for samples processed prior to 2004, when juvenile samples were only authorized at the state (or SDIS) level and could not be uploaded to NDIS. Lab stakeholders indicated that there has been no need to differentiate juvenile from adult profiles since this time because all profiles are now processed in the same way.

Eighteen of the state laboratories reported processing the DNA samples in-house only, while eight outsource all of their samples to another lab, and the remainder does a combination of in-house processing and outsourcing. With few exceptions, labs process DNA samples according to the date of receipt rather than prioritizing by offense or status;[14] this is true even for states that collect DNA from juvenile arrestees. Nineteen state labs reported a backlog of samples since they began collecting DNA samples and entering them into CODIS. However, states used different thresholds to define backlog based in part on the typical volume of samples moving through the laboratory. Reported backlogs ranged from 900 offender samples to 30,000 offender samples. The time elapsed between receipt and analysis of samples varied among states, ranging from a few weeks to two years, and variations also occurred over time within states, depending on funding availability.

Implications of NDIS Policy Change

Federal law and policy regulates what categories of profiles can be uploaded to NDIS, the national level of CODIS, though not what states can include at state or SDIS level. It was not until Congress enacted the Justice for All Act of 2004, which expanded the categories of eligible profiles beyond convicted offenders, that juvenile profiles could be submitted to the national level. Arrestees, including juveniles, became eligible for upload in 2006.

Prior to 2004, states like Minnesota, which began collecting DNA from juveniles in 1989, needed to track juvenile profiles to ensure they were not improperly uploaded to NDIS. Following this change in federal law, many states stopped distinguishing between juvenile and adult offender samples.

Although the FBI retains a category for juvenile specimens, the category is not required, and use is left to the discretion of the states. Though some states still distinguish juveniles, the majority have no longer use the juvenile specimen category, making a simple count from this category in NDIS unreliable.

[14] Virginia processes arrestee samples before convicted offender samples.

Ensuring Collection from Eligible Individuals

Few state laws designate procedures or responsible agencies for ensuring compliance with DNA database statutes. Some states have implemented procedures for ensuring that all eligible samples have been collected, although these procedures are often informal and not defined in legislation or rules. Virginia is one of the few states with a law specifying that a particular agency (the Department of Juvenile Justice) is responsible for verifying the collection of all eligible juvenile samples.[15] Of the 29 lab officials interviewed, only ten reported having implemented procedures to ensure the collection of all eligible samples at either the lab or at DNA collection agencies, and four states explicitly stated that they do not have a process for determining whether they collect all eligible samples. Although some stakeholders from case study states were aware of instances in which individual judges did not order required DNA collection, lab staff and stakeholders reported noncompliance typically results from either a lack of resources or confusion about responsibilities. The extent of noncompliance is difficult to measure and thus remains unknown.[16]

Quality Control

Labs have many quality control procedures in place, including those that protect the information in the databases (such as statutory penalties for the unauthorized release of information) and those that ensure only qualified profiles are included in CODIS. Quality control methods built into the DNA analysis and hit confirmation process, such as verifying qualifying offenses against offender records and confirming the identity of the sample with a fingerprint, are more difficult to execute with juveniles. Twelve state labs reported a number of challenges in attempting to confirm qualifying offenses upon obtaining a sample and/or after a hit occurred. These challenges usually resulted from a lack of direct access to juvenile records; only six state laboratories reported access to juvenile records through a shared database with other agencies (compared to 17 state labs with access to adult criminal history databases), and stakeholders in the juvenile justice systems in case study states reported that they typically did not share juvenile records with the labs.[17]

In lieu of this direct access, as is typically the case with adult criminal history, some labs had identified points of contact and developed informal working relationships in relevant juvenile justice agencies to gain access to juvenile records and confirm qualifying offenses. The process of accessing juvenile records can simply involve presenting credentials to demonstrate the requester's legitimate need for the information, or may be more complex. Without formal processes in place, both laboratory and juvenile records staff can be placed in difficult situations- laboratory staff cannot disclose that there has been a hit against a profile until it has been confirmed, and juvenile agency

[15] Virginia Annotated Code § 16.1-299.1.
[16] Case processing lags and backlogs of offender profiles confound retrospective comparisons of the number of eligible juveniles to the number of juvenile profiles added to CODIS.
[17] Among the case study states, Kansas is the exception – the Juvenile Justice Authority provides the Kansas Bureau of Investigation with access to its database.

staff cannot release a juvenile's court records to confirm an offense without receiving a valid reason. States have resolved these problems differently; some allow the labs or specific personnel within the labs access, others require extensive credential verification for each call, and still others have worked out personal understandings about who is calling and what offenses can be confirmed. These types of arrangements, however, require a high level of personal or interagency trust. The absence of clear rules gives increased discretion to the laboratories, which can lead to inconsistent application of verification procedures for juveniles.

Expungement

Laws regulating expungement,[18] or the removal of a juvenile's DNA record from CODIS, are more similar across states than policies governing collection. The general prerequisite for initiating expungement is a case reversal of adjudication, or case dismissal or dropped charges for arrestees, both of which must then be documented by a court order.

Expungement Laws/Rules

In every state but Montana, the offender bears the primary burden of requesting expungement. Two other states (Pennsylvania and California) also permit the court or county attorney to initiate expungement procedures. In addition to a court order documenting an adjudication reversal, 29 states require that the offender have no other qualifying offenses, one state requires the reversal to have occurred on the grounds of actual innocence, and one state requires a one-year waiting period between reversal and expungement. In several states, offenders can qualify for expungement through means other than a case reversal or dropped charges. Two states, New Jersey and Kentucky, permit removal of DNA samples and electronic profiles from the system if the juvenile successfully completes probation or undergoes a diversion program.

In many states, juveniles are eligible to have their adjudication records expunged or sealed after a set period of time with no further offenses or upon the completion of court ordered activities (OJJDP 1997). These procedures are consistent with the rehabilitative emphasis of the juvenile justice system and the desire to provide youth with a clean slate and an opportunity for a second chance. Although the terms expungement and sealing are sometimes used interchangeably, if a juvenile record has been expunged, it generally has been erased or destroyed and cannot be retrieved; if a record has been sealed it can be accessed by court order or viewed by designated officials. The majority of state laws (80 percent), however, make no mention of how these juvenile specific record changes impact the retention or expungement of DNA profiles. Two states

[18] States use different terms for removing a DNA profile from CODIS and associated laboratory databases, including expungement, removal, and administrative removal. Administrative removal refers to the expungement of profiles that were entered in error and typically does not involve the court system. In this report, the term "expungement" is used to refer to the removal, deletion, or withdrawal of any profile that was legally entered into CODIS or the laboratory database, as well as the disposal of the associated sample.

include DNA profiles and samples among the records eligible for expungement in the event that a juvenile's record is sealed under juvenile procedures. The four other states with legislation specifically addressing the relationship between juvenile criminal records and DNA profiles expressly exclude DNA from the records eligible for sealing. *Appendix B* provides a summary chart of expungement provisions in the 30 states collecting juvenile DNA.

Expungement Procedures

DNA expungement methods are similar among states. Typically, upon receiving a court order to expunge a record, the lab will confirm there are no other qualifying offenses on record; a process which, as noted above, can be more difficult for juveniles. The laboratory will then destroy any remaining DNA samples and remove the DNA profile and identifying information from the local database and SDIS, and following SDIS expungement the profile will then be removed automatically from NDIS. While laboratories universally remove expunged records from CODIS and dispose of remaining samples, the process for removing identifying information from local databases varies across labs. At least ten states maintain information in the laboratory database that cannot be linked to any DNA profile, although some of these maintain sample numbers only for auditing purposes or to enable accurate counts of expungements performed.

While all states collecting juvenile DNA have expungement provisions, few DNA profiles are actually expunged. There is no hard data indicating why so few expungements occur, but stakeholder respondents suggested that expungement is uncommon because offenders are required to initiate the expungement process and are often not informed about the process or do not wish to have further contact with the justice system in order to remove their DNA profiles from CODIS.[19] Stakeholders suggested that better communication regarding expungement policies and educational outreach by courts or community groups might increase expungement of juvenile DNA profiles. They concluded, however that most juveniles would be unlikely to initiate the expungement process despite these efforts. Some laboratory staff and stakeholders in case study states expressed concern that automatic expungement policies for all eligible profiles would place a significant burden on the lab. For states that collect DNA from arrestees, this would require tracking all arrestees from whom samples had been collected to determine whether they were charged, prosecuted, or convicted.[20]

[19] The majority of stakeholders interviewed were unaware of expungement policies or had misperceptions about the expungement process. Although juvenile prosecutors, defense attorneys, judges, and other court personnel who were interviewed said they would typically be involved in administering a court order for DNA expungement, only two of nine had had direct experience with a DNA expungement request from a juvenile, and both of these respondents had handled only one or two requests.

[20] Virginia is the only state in our sample that has experience with automatic expungement in the context of adult arrestees. The lab is required to track and automatically remove the DNA profiles of individuals who are arrested but not prosecuted, as well as those who are prosecuted but are found not guilty.

Non-Laboratory Perspectives

In each of the five case study states, researchers spoke with four to seven criminal and juvenile justice professionals outside of the CODIS laboratory to develop a fuller picture of the implementation and impact of DNA laws. Stakeholders included juvenile detention officers, juvenile probation officers, prosecutors, defense attorneys, judges, juvenile advocates, law enforcement officials, and one legislator. All stakeholders were selected based on their positions and the role of their organizations in juvenile DNA collection, processing, or use. It is important to note that very few of those interviewed had first-hand experience with juvenile DNA issues. Stakeholders from juvenile detention facilities, which served as collection agencies in all but one state, were most familiar with the policies and procedures; their input on collection practices was noted in the previous section. While impressions and perceptions were gathered in each state, stakeholders were unable to speak authoritatively or provide quantifiable evidence of the public safety impact of having juvenile DNA in databases.

The lack of experience or familiarity with the issue of juvenile DNA among those interviewed is notable. For example, several juvenile defenders and prosecutors were unclear on where to find juvenile DNA collection laws, which are often included in the adult criminal code rather than the juvenile or family code, what the relevant collection laws required of their clients, or when expungement might be available.

Although stakeholders lacked experience and familiarity with the issue of juvenile DNA, they held varying beliefs about the value of juvenile DNA collection and use, with slightly more interviewees perceiving a positive impact on public safety than those perceiving no positive impact. Of those who believed juvenile DNA processing positively affected public safety, five stakeholders discussed the value of identifying perpetrators of serious and violent crimes, including murder and rape. An additional nine respondents reported that while they could not point to specific instances of the positive impact of juvenile DNA, they were optimistic that they would see positive results in the future. Nine stakeholders disagreed, believing that juvenile DNA processing had no impact on public safety. Specifically, these stakeholders fell into two camps: those who were opposed to DNA collection on principle and those who saw no potential positive impact. Some of those against collection argued that qualifying offenses should be different for juveniles and adults, while others argued that juvenile DNA should not be collected at all, because juveniles re-offend at lower rates than adults.

When asked about their own state laws, in four of the five states interviewed in which juveniles and adults are subject to the same set of qualifying offenses, the majority of interviewees reported that the qualifying offenses were appropriate. No stakeholder respondents in the case study states suggested that the set of qualifying offenses for juveniles should be expanded.[21] Stakeholders were less optimistic about the deterrent effect of DNA collection from juveniles, with all but one perceiving no deterrence at all; explanations given included the impulsivity and immaturity of juveniles.

[21] Ten stakeholders did not answer this question.

Implementation Lessons

State laws governing the collection of DNA vary widely and often do not specify the roles and responsibilities of agencies charged with implementing these laws. These ill-defined roles are exacerbated by the lack of institutionalized relationships between juvenile justice agencies and state laboratories, which can hinder coordination and make it difficult to implement quality control procedures, such as confirming qualifying offenses and hits. In addition, there is little oversight to ensure that all eligible juveniles provide DNA samples and that all samples are sent to laboratories. Expungement of juvenile DNA profiles generally must be initiated by offenders themselves, and thus occurs rarely.

States implementing juvenile DNA processing policies faced several common challenges. Ambiguous laws and policies posed a problem for many states, causing local jurisdictions and often individual laboratories to bear the responsibility, by default, of developing policies relating to juvenile DNA. For the most part, legislators added juveniles to existing laws without taking into account the distinctive agencies and procedures associated with the juvenile justice system. Key juvenile agencies, as indicated by the interviews with stakeholders, often lacked important knowledge about the DNA collection and expungement policies for juvenile offenders. Laboratory staff, for their part, were often unfamiliar with the juvenile justice system, and experienced unanticipated resistance when trying to access information about juvenile criminal histories. Stakeholders and laboratory staff suggested the following steps to avoid similar pitfalls:

- Ensure that statutory language used is relevant to a juvenile population (e.g. adjudicated versus convicted).
- Establish a mechanism for the laboratory to access juvenile criminal history records for purposes of confirming eligibility, verifying identity, preventing duplicate collection, and reporting on hits.
- Anticipate how “hits” will be processed and reported if the corresponding juvenile criminal record is sealed or expunged.
- Clarify in policy the relationship between DNA expungement and juvenile record expungement or sealing.

Data on Juveniles in CODIS

Researchers asked state CODIS lab representatives from the 30 states collecting juvenile DNA to provide the following data: the number of juvenile and adult profiles uploaded to SDIS and NDIS from 2005 through 2008; the number of hits to juvenile and adult profiles during these years; demographic information associated with the juvenile sources of profiles, expungement occurrences; and information on forensic profiles and investigations aided by CODIS (as reported to the FBI). Twenty-five states responded to the request; only ten were able to provide meaningful data on juvenile profiles in their databases, two could only report total profiles (both adult and juvenile), and 13 were

unable to provide any of the requested data. States unable to provide data reported three main reasons: juveniles could not be distinguished in the database; information on juveniles is collected, but the nature of the database structure prevents the running aggregate queries; or gathering the data was possible but would impose too great a burden on staff time and resources. In addition, some of the items on the data request, including race and ethnicity, were not typically collected by lab staff. However, one state was able to fully complete the data request, and another state provided all information except ethnicity and racial data associated with profiles and supplemented the data request with a detailed summary report of investigations aided by profiles and the original crimes for which those profile samples were collected.

According to FBI statistics, the 30 states that collect DNA from juveniles had uploaded 4.68 million juvenile and adult offender profiles into NDIS as of 2008; non-juvenile states contributed another 1.36 million profiles in 2008.[22] The ten states able to provide data on the number of offender profiles uploaded into NDIS contributed 1.95 million profiles by that time,[23] representing 42 percent of all profiles from states that collect DNA from juveniles. Of these uploaded profiles, approximately six percent came from individuals who were juveniles at the time of collection, as indicated in Table 1.

Table 1. Juvenile and Adult Profiles in NDIS Database for 10 States as of 12/31/2008

Profile Type	# Respondent Profiles	% All Respondent Profiles
Juvenile	121,583	6.2%
Adult	1,829,130	93.8%
All respondents	1,950,713	100.0%

Only two states provided data on the gender of adult and juvenile offender DNA profiles, while only one state provided race and ethnicity data associated with offender profiles. Given this small sample, no conclusions can be drawn about the gender, racial, or ethnic makeup of juvenile profiles in CODIS as a whole.

Two states provided data on the qualifying offenses responsible for juveniles in their databases. Both of these states collect DNA from juveniles for a similar list of qualifying offenses, including assaults, sex offenses, burglaries, robberies, and drug offenses, although only one collects DNA from juvenile arrestees. In one of these states, approximately half of juvenile profiles (53 percent) were associated with burglaries, and the majority of the remaining profiles were associated with assault (14 percent), sex offenses (12 percent), and robbery (11 percent). In the other state, 53 percent of

[22] Federal Bureau of Investigation. (July 2008) *CODIS-NDIS Statistics*. Retrieved from http://www.fbi.gov/about-us/lab/codis/ndis-statistics.

[23] Although respondents reported data for both NDIS and SDIS, the number of profiles in each database for all but one responding state were identical. For the one remaining state, total NDIS and SDIS profiles only differed by ten. Since the numbers in SDIS and NDIS are nearly identical, only NDIS profiles will be discussed from this point forward.

juvenile profiles were associated with sex offenses, and 28 percent were associated with burglaries. The offense distributions associated with the juvenile profiles in the two states are quite different. While we are not in a position to explain the variation, possible factors include different offending patterns, varying implementation practices, and differences in points of collection.

One state was able to provide detailed information about the "hits" associated with juvenile profiles, including the type of crime the profile later matched, or hit against, and the offense for which DNA was originally collected. By 2009, this state had 54,724 juvenile profiles and 553,520 adult profiles in SDIS and NDIS. A descriptive analysis of these data found that juvenile profiles resulted in 2,016 hits matching crime scenes between 2001 and May 2009,[24] and it was common for qualifying offenses and hit crimes to be different. Of the 1,114 burglaries that matched existing juvenile DNA profiles (just over half of all juvenile hits), only one-third of these profiles (34 percent) were included in CODIS due to a prior burglary offense. Another third of the burglaries hit against a juvenile DNA profile in CODIS collected for lesser offenses, allowing officials to identify juveniles whose criminal behavior may have been escalating in severity. In addition to the burglary cases, DNA evidence from 78 homicide crime scenes hit against juvenile profiles. (Over this same time period, 758 adult profiles matched to evidence from homicides.) Of those hitting against juvenile profiles, 29 percent of the profiles were originally collected from juveniles convicted for burglary charges, 19 percent for drug offenses, and remaining for a large assortment of less severe crimes. In this state, then, juvenile DNA enabled officials to identify suspects, alerted them to potentially escalating severity of criminal behavior, and aided in the investigation of serious violent crimes. A second state was also able to identify the types of crimes against which juvenile DNA profiles hit, but they had a much smaller number of hits to review. In this state, there were 15 hits to juvenile profiles in 2008; drug offenses, carjacking, and robberies each made up 20 percent of these hits, while assaults and burglaries each accounted for 13 percent.

As this report has emphasized, many state laboratories are unable to provide descriptive data about juveniles with profiles in CODIS. The data presented from several states provide some insights into the characteristics and subsequent offending patterns of juveniles in DNA databases, but they do not support a definitive empirical assessment of the public safety impact of juvenile DNA processing. The lack of data about the number and characteristics of juveniles with profiles in CODIS limits the ability of policymakers and researchers to understand the ramifications of collecting DNA from juveniles.

[24] While juvenile repeat offenders are those who had DNA collected as a juvenile, some may have been adults when convicted for additional offenses.

Policy Implications and Recommendations

The research findings discussed in this report point to a number of policy implications and recommendations regarding juvenile DNA collection and use for state and federal policymakers, legislators, and CODIS laboratories. These include ideas for improving the oversight of DNA laws and policies and specific suggestions for drafting or modifying juvenile DNA laws.

- **Review scope of qualifying offenses for juveniles.** The juvenile justice system is rooted in the belief that juveniles should be treated differently than adults, with an emphasis on rehabilitation and opportunities for second chances. Although juveniles have increasingly been treated more like adults in the justice system, the trend seems to be moderating. Policymakers should carefully review the scope of DNA collection for juveniles and particularly scrutinize new proposals to collect DNA from juvenile arrestees.

- **Examine operation of expungement provisions.** The burden of initiating expungement generally falls on offenders, not on state or federal agencies. As there are few requests for expungement, profiles typically remain in the system indefinitely even if eligible for expungement. Legislators and policymakers should review the operation of expungement policies to assess whether they are functioning as intended, particularly in states that collect DNA from arrestees.

- **Align DNA expungement with juvenile records expungement.** States should link DNA profile expungement to juvenile record expungement and sealing. In addition to responding to concerns regarding fairness to juveniles, reconciling the two sets of expungement procedures would address the current situation in which an original juvenile qualifying offense cannot be verified when the associated juvenile record has been expunged or sealed.

- **Draft laws and policies that clearly delineate roles and responsibilities in state laws and implementation policies.** In addition to specifying the qualifying offenses, type of offenders (noting that juveniles are “adjudicated,” not convicted), and point of collection, laws and implementation procedures should clearly delineate agency roles, responsibilities, and relationships in the areas of compliance, collection, quality control, and expungement. Greater clarity will help minimize implementation problems that have arisen from ambiguities in DNA laws. Laws authorizing DNA collection from arrestees require close coordination among justice system actors and are likely to involve more complexities in implementation than those limited to adjudicated or convicted offenders, given that a greater number of agencies are generally involved.

- **Address the ways in which DNA collection laws interact with existing juvenile justice laws and procedures, and modify procedures to account for differences between juvenile and adult systems.** Quality control procedures may

be more limited for juveniles, samples may be analyzed needlessly, and sometimes the donor of a sample cannot be identified when a hit occurs. Certain aspects of collection, compliance, and quality control require improved working relationships between labs and juvenile justice agencies.

- **Recognize pressure on labs.** We are not the first to observe the competing pressures placed on labs to reduce their backlogs (variously defined) and to handle an expanded set of offenders. Policymakers should reassess expansion of DNA laws or, at the least, recognize that, without additional resources, labs cannot be expected to reduce DNA evidence and database backlogs while legislatures expand the scope of qualified offenders.

- **Monitor future implications of juvenile DNA collection.** Despite apprehensions expressed by some at the passage of juvenile DNA laws, juvenile DNA profiles are only authorized for law enforcement use, and the study has identified no hardships or adverse collateral consequences[25] of DNA processing. Nevertheless, legitimate concerns have been raised about the potential for expanded use (or misuse) of DNA profiles in the future—for example, recent publicity concerning the use of familial searches in ongoing investigations—as well as non-law enforcement access to the genetic samples themselves. These trends should be monitored.

- **Explore ways to facilitate improved data**. With the available data, it is difficult to determine the volume of juvenile DNA profiles in CODIS, the characteristics of associated juveniles and offenses, and the implications for hit rates. As a result, decisions are not being informed by data, but instead are based on perceptions and beliefs. To improve data reporting, federal and state policymakers should explore ways to encourage labs to compile and publicize basic descriptive statistics on the demographic characteristics of offenders included in CODIS and the underlying qualifying offenses, as well as demographic and offense-type information about the resulting hits. Expanding these activities could help federal and state governments monitor and assess the performance and public safety benefits of DNA databases and would inform further research. Additional data collection would, however, place an additional burden on the labs. With funding or additional analysts or programmers, state labs may be able to extract more data regarding the characteristics of individuals included in their databases or modify existing data systems.

- **Pursue further research.** Despite the difficulties encountered in this study, we remain hopeful that the data will improve or that future researchers will be able to work with labs to obtain some of the information needed to quantify the effects of DNA collection from juveniles. Questions about the benefits and costs of juvenile DNA collection, or expanded DNA collection from offenders generally, remain

[25] Although strictly speaking, DNA collection may be a "collateral consequence," of a juvenile's arrest, adjudication, or sentencing, DNA collection itself – unlike a criminal record -- does not currently create any barriers to future employment, education, or other public benefit.

unanswered. A related area of inquiry would explore the relative benefits of adding offender profiles versus adding forensic profiles, particularly relevant in this time of limited resources.

Conclusion

This study aimed to expand the knowledge base relating to current laws, practices, and implications of collecting DNA from juveniles. Unfortunately, while the majority of states collect DNA from juveniles, we cannot fully quantify the number and characteristics of juvenile DNA profiles uploaded to CODIS, or empirically assess the impact of this DNA collection and inclusion in databases on public safety. Although the study did not produce the data expected, it has underscored the absence of data upon which to base policy decisions.

Moreover, this study has been able to highlight the way in which juvenile collection laws and procedures have been grafted onto existing systems intended for collection from adults, an approach that disregards the fact that juveniles are a distinct population requiring modifications in laws and processes. Expungement standards and rules for accessing criminal history records are prominent examples of how the adult and juvenile systems can operate differently.

In addition, the implementation of juvenile DNA collection laws has been complicated by the necessity for state laboratories to coordinate with juvenile justice agencies. Policymakers should review the operation of their juvenile DNA laws and consider implementing changes that distinguish juveniles from adults, particularly with respect to expungement policies and further expansion of DNA laws. Improving the available information about the characteristics of individuals whose DNA is included in CODIS would inform future research on juveniles and other offenders. In contemplating these revisions, policymakers should be aware that laboratories are already under pressure to meet the expanding demands placed upon them and that creative solutions, and perhaps additional resources, will be necessary.

References

American Society of Law, Medicine & Ethics (2006). *DNA Statute Grid*. Retrieved from http://www.aslme.org/dna_04/grid/statute_grid_4_5_2006.html.

American Civil Liberties Union (2004). ACLU Letter to Senators of the Judiciary Committee Expressing Concerns about S. 1700, the "Advancing Justice Through DNA Technology Act of 2003" [open letter to Committee on the Judiciary]. Available: http://www.aclu.org/crimjustice/gen/10229leg20040603.html.

Bieber, Frederick R. (2006). Turning Base Hits Into Earned Runs: Improving the Effectiveness of Forensic DNA Databank Programs. *Journal of Law, Medicine and Ethics*: Symposium, DNA Fingerprinting and Civil Liberties. 222-233.Bhati, Avinash. (2010). Quantifying the Specific Deterrent Effects of DNA Databases. Washington, D.C.: The Urban Institute.

Buck Willison, Janeen, Daniel P. Mears and Jeffrey A. Butts. (2010). The U.S. Juvenile Justice Policy Landscape. In U.S. Criminal Justice Policy: A Contemporary Reader, edited by Karim Ismaili. Sudbury, MA: Jones & Bartlett Learning.

Butler, John (2009). Fundamentals of Forensic DNA Typing. Gaithersburg, Maryland: National Institute of Standards and Technology.

Butts, Jeffrey A. and Ojmarrh Mitchell. (2000). Brick by Brick: Dismantling the Border Between Juvenile and Adult Justice. *Criminal Justice*: 2. 167-213.

Campaign for Youth Justice. (2011). *State Trends Report: Legislative Victories from 2005 to 2010, Removing Youth from the Adult Criminal Justice System*. Retrieved from http://www.campaignforyouthjustice.org/documents/CFYJ_State_Trends_Report.pdf. Accessed April 12 2011.

DNA Resource (2005). *Chicago's Study on Preventable Crimes: Requiring DNA for felony arrests can solve and prevent violent crimes, waiting for conviction can cost lives.* Retrieved from http://www.dnaresource.com/documents/ChicagoPreventableCrimes-Final.pdf. Accessed April 21, 2011.

DNA Resource.com. http://dnaresource.com.

Fagan, Jeffrey. (2008). Juvenile Crime and Criminal Justice: Resolving Border Disputes. *Juvenile Justice*: 18(2). 81-118.

Federal Bureau of Investigation (2011). *CODIS-NDIS Statistics*. Retrieved from http://www.fbi.gov/about-us/lab/codis/ndis-statistics.

References

Federal Bureau of Investigation. (June 2008) *CODIS-NDIS Statistics*. Retrieved from http://www.fbi.gov/about-us/lab/codis/ndis-statistics.

Gottfredson, Michael R. and Travis Hirschi. (1990). A General Theory of Crime. Palo Alto, CA: Stanford University Press.

Hibbert, Michelle. (1999). DNA Databanks: Law Enforcement's Greatest Surveillance Tool? *Wake Forest Law Review*: 34.

Huizinga, David, Terence Thornberry, Kelly Knight, Peter Lovegrove, Rolf Loeber, Karl Hill, and David P. Farrington. (2007). Disproportionate Minority Contact in the Juvenile Justice System: A Study of Differential Minority Arrest/Referral to Court in Three Cities. Washington, D.C.: The Office of Juvenile Justice and Delinquency Prevention.

Kimmelman, Jonathan. (2000). Risking Ethical Insolvency: A Survey of Trends in Criminal DNA Databanking. *Journal of Law, Medicine and Ethics*: 28(3). 209-221.

Krimsky, Sheldon, and Tania Simoncelli. (2011).Genetic Justice: DNA Data Banks, Criminal Investigations, and Civil Liberties. New York, NY: Columbia University Press.

Moffitt, Terrie. (1993). Adolescence-Limited and Life-Course Persistent Antisocial Behavior: A Developmental Taxonomy. *Psychological Review*: 100. 674-701.

Mulvey, Edward P. *Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders.* (Juvenile Justice Fact Sheet). Washington DC: Office of Juvenile Justice and Delinquency Prevention Retrieved from http://www.ncjrs.gov/pdffiles1/ojjdp/230971.pdf. Accessed April 13, 2011.

National Association of Criminal Defense Lawyers. (2004). Re: Proposed Expansion of the CODIS Database- S. 1700 [open letter to Senators Orrin Hatch and Patrick Leahy]. Available: http://www.nacdl.org/public.nsf/PrinterFriendly/CI_03_66?openDocument.

Nelson, Mark. (2010). Making Sense of DNA Backlogs – Myths vs. Reality. Washington, D.C.: National Institute of Justice.

Office of Juvenile Justice and Delinquency Prevention, Statistical Briefing Book (2010) Retrieved from http://www.ojjdp.gov/ojstatbb/structure_process/faqs.asp. Accessed Sept 25, 2010.

Office of Juvenile Justice and Delinquency Prevention (1997). “Juvenile Proceedings and Records” *Juvenile Justice Reform Initiatives in the States 1994-1996*. Washington, DC: Shay Bilchik, Retrieved from http://www.ojjdp.gov/pubs/reform/.

Puzzancherra, Charles, Benjamin Adams and Melissa Sickmund. (2010). Juvenile Court Statistics, 2006-2007. Washington, D.C.: The National Center for Juvenile Justice.

References

Roman, John K, Shannon Reid, Jay Reid, Aaron Chalfin, William Adams and Carly Knight. (2008). The DNA Field Experiment: Cost-Effectiveness Analysis of the Use of DNA in the Investigation of High-Volume Crimes. Washington, D.C.: The Urban Institute.

Sampson, Robert J. and John H. Laub. (2003). Life-Course Desisters? Trajectories of Crime Among Delinquent Boys Followed to Age 70. *Criminology*: 41(3). 301-340.

Schroeder, David A. and Michael D. White. (2009). Exploring the Use of DNA Evidence in Homicide Investigations: Implications for Detective Work and Case Clearance. *Police Quarterly*: 12(3). 318-342.

Snyder, Howard N. and Melissa Sickmund. (2006). Juvenile Offenders and Victims: 2006 National Report. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention.

Taylor, Ralph B., John S. Goldkamp, Doris Weiland, Clairissa Breen, Marie R. Garcia, Lawrence A. Presley and Brian Wyant. (2007). Revise Policies Mandating Offender DNA Collection. *Criminology and Public Policy*: 6(4).

Wickenheiser, R.A. (2004). The Business Case for Using Forensic DNA Technology to Solve and Prevent Crime. *Journal of Biolaw & Business, 7(3), 34-50.*

Appendix A: State Authorization Overview

Authorizing Laws in States Collecting DNA from Juveniles

State	Year First Included	Juvenile Specific Legislation		Juvenile Categories Authorized				Offense Levels				Type of Select Felonies or Misdemeanors Authorized		
					Arrestees									
		Juveniles Not Distinguished**	Age Floor	Adjudicated	Adult	Juvenile	Sentenced Based*	All Felony	Select Felonies	Select Misdemeanors	Court Discretion	Sexual Offenses	Violent Offenses	Property Offenses
Alaska	1996	√	16	√	√			√		√		√	√	√
Arizona	1995			√	√	√		√		√		√	√	√
California	1998			√	√		√	√		√		√		
Colorado	1999			√	(P)			√		√		√		
Florida	1997	√		√	(P)			√		√		√		
Illinois	1990	√		√			√	√		√	√	√		
Iowa	2005	√		√				√		√	√	√		
Kansas	1992	√		√	√	√		√		√		√	√	
Louisiana	2005	√		√	√	√		√		√		√	√	
Ohio	1995	√		√	(P)	(P)		√		√		√	√	√
Oregon	1994			√ (YA)				√		√		√	√	√
Pennsylvania	2005	√		√				√		√		√	√	
South Carolina	1998	√		√	√			√		√	√	√		
South Dakota	2003	√		√	√			√		√		√		
Utah	2002	√	13	√				√		√		√		√
Washington	2002	√		√				√		√		√	√	
Massachusetts	1997			√ (YA)			√	√						
Minnesota	1989	√		√				√						
Texas	1991			√	√		√	√						
Virginia	1993	√	13	√	√			√						
Kentucky‡	2006		14	√					√	√		√		
Maine	2004			√	√				√	√		√	√	√
Michigan	2002	√		√	√	√			√	√		√		
New Hampshire‡	1996	√		√					√	√		√	√	
New Jersey	1998	√		√	√		√ (6+ month sentence)		√	√		√	√	
Alabama	1994			√	(P)	(P)			√			√		
Arkansas	2003			√					√			√	√	
Montana	1995			√					√			√	√	
Tennessee	1991			√	√				√			√		
Wisconsin	1993			√					√		√	√		
Total	N/A	17	4	30	13	4	5	20	10	21	4	26	13	6

‡ Not currently collecting juvenile DNA
*Sentence based laws authorize DNA collection based on sentence, e.g. length of sentence or detention status
**Juveniles and adults are included in the same legislation with the same qualifying offenses
(P) = Pending
(YA)= Youthful Offender, in these states a category of adjudicated juveniles with more serious offenses or records

Appendix B: State Expungement Law Overview

DNA Expungement* Laws for States Collecting Juvenile DNA

State	Initiating Expungement Process		Basis for Expungement		
	Offender Initiated	System Initiated	Reversal, no other qualifying offenses	Sealing Juvenile Records	Special Qualifications
Alabama	√		√		
Alaska	√		√		
Arizona**	√		√		
Arkansas	√		√		
California	√	Reversal Court	√		
Colorado	√		√		
Florida°	√		√		
Illinois	√		√		only cases reversed on grounds of actual innocence eligible
Iowa	√		√		
Kansas**	√		√	DNA exempted	
Kentucky‡	√		√		undergo pretrial diversion program following sentence of dismissed-diverted
Louisiana**	√		√		
Maine	√		√		
Massachusetts	√		√		one year waiting period after reversal
Michigan**	√		√		
Minnesota	√		√	Sufficient	
Montana		County Attorney	√	DNA exempted	
New Hampshire‡	√		√	DNA exempted	
New Jersey	√		√		case dismissed after probation for juveniles only
Ohio	√			DNA exempted	only juveniles eligible for expungement, others are just sealed
Oregon	√		√		
Pennsylvania	√	√	√		
South Carolina	√		√		
South Dakota	√		√		
Tennessee°	√		√		
Texas	√		√	Sufficient	
Utah	√		√		
Virginia	√		√		
Washington	√		√		
Wisconsin	√		√		
TOTAL:	29	3	29	2	N/A

*Terms for removing DNA samples, profiles, and identifying information vary by state. All states have a procedure for administrative removal of erroneously included samples and profiles. This chart reviews laws regulating the removal of DNA samples and information included legally and are eligible for removal or destruction due to a change in the individual's legal status.

‡ Not currently collecting from juveniles.

°Tennessee and Florida's expungement laws are regulated by internal lab policy, rather than codified in law or adminitstrative rules.

** States that collect DNA from arrestees all have laws authorizing the expungement of DNA if there is no conviction, the case is dropped, or no charges are filed.

Appendix C: Detailed Methodology

The research team employed a number of complementary data collection methods:

- conducted a systematic review of all state DNA collection laws and identified 30 states that were collecting juvenile DNA;
- spoke with laboratory staff in 29 of these states to determine policies, procedures, and challenges involved in implementing DNA laws;
- requested descriptive data from 30 state DNA CODIS labs, and received responses from 25;
- interviewed a range of criminal and juvenile justice stakeholders in five states to gather richer descriptive information about policies, practices, and impacts surrounding the collection of juvenile DNA; and
- consulted with outside experts and held a meeting with federal officials as well as other experts from the forensic and juvenile justice communities to discuss the report's preliminary findings and explore the wider implications of juvenile DNA collection.

This study focused on juveniles handled in the juvenile justice system, though states were also invited to provide data on juveniles under the state age of majority if their data systems were unable to distinguish between those tried as juveniles and those handled in adult criminal courts. Those states that only collect from juveniles who are tried as adults were not included in the study since these juveniles are treated as adults for criminal justice and DNA collection purposes. As a result, it is nearly impossible to identify juveniles tried as adults in laboratory data systems, and little to nothing can be discerned regarding their characteristics.

Review of State Laws

Researchers first conducted a review of laws in all 50 states to determine which states collected DNA from juveniles processed in the juvenile justice system. This review was based on a detailed review of DNA legislation compiled in 2006 by the American Society of Law, Medicine & Ethics[27]. Researchers updated the ASLME compilation by reviewing legislation in each state, and determined that 30 states were collecting DNA from juveniles as of November 2009. Researchers reviewed authorization and expungement laws in detail for the 30 identified states.

Four states – Massachusetts, Oregon, New Mexico, and New York – have legislation authorizing the collection of DNA from "youthful offenders." In Massachusetts and Oregon, this designation referred to a subcategory of juvenile offenders processed in the juvenile court; in New Mexico and New York, however, youthful offenders were a subcategory of adult offenders who, though of juvenile age, were processed within the

[27] http://www.aslme.org/dna_04/grid/statute_grid_4_5_2006.html

Appendix C: Detailed Methodology

criminal court. Due to this distinction, New Mexico and New York were not included in this study.

States Included in Study

Alabama	Kentucky	Oregon
Alaska	Louisiana	Pennsylvania
Arizona	Maine	South Carolina
Arkansas	Massachusetts	South Dakota
California	Michigan	Tennessee
Colorado	Minnesota	Texas
Florida	Montana	Utah
Illinois	New Hampshire	Virginia
Iowa	New Jersey	Washington
Kansas	Ohio	Wisconsin

Lab Interviews and Data Requests

The research team identified state CODIS lab supervisory staff for phone interviews in each of the 30 study states and completed semi-structured phone interviews with 29 of them.[28] The interview protocol developed by the team addressed the following topics: sample collection processes and responsibilities; sample analysis processes; how DNA profiles are entered into CODIS and stored; how the database identifies hits to profiles; expungement policies; and challenges and lessons learned associated with CODIS lab processes (see Appendix C-1 for the CODIS Laboratory Staff Interview Protocol). Nine of the laboratory interviews occurred from March 2009 to July 2009; the remaining interviews occurred from February 2010 to May 2010.

During their interviews with laboratory staff, researchers also requested aggregate state data about offenders included in CODIS (SDIS and NDIS) including:

- total number of juvenile and adult profiles, forensic samples, and investigations aided;
- distribution of juvenile and adult profiles in SDIS/NDIS by offense type and by gender, race, and ethnicity (snapshot as of 12/31/2008); and
- annual numbers of profiles added and hits recorded for juveniles and adults by past calendar years. (see Appendix C-2 for the Laboratory Data Request),

UI researchers made repeated attempts via phone, email, and (in some cases) in-person conversations to obtain responses to the data request from states. Twenty-five states responded; 12 were able to complete the data request in part or in full, and 13 were unable to provide any of the requested data.

[28] California's state CODIS lab did not respond to repeated interview and data requests.

Appendix C: Detailed Methodology

Stakeholder Interviews

Researchers selected Arizona, Texas, Kansas, Florida, and Illinois for interviews with a broader group of stakeholders after considering the following criteria: volume of NDIS profiles; scope of collection; geographical distribution; date of relevant law's enactment; and existing relationships with the laboratory.[29] The stakeholder interviews occurred from February 2010 to May 2010.

All five of these states collect from adjudicated juveniles, and both Arizona and Kansas collect from juvenile arrestees. Florida and Texas both represent unique collection methods; Texas collects DNA from all juveniles sentenced to detention, and Florida collects DNA in the courthouse immediately after adjudication. UI researchers had existing relationships with juvenile justice stakeholders in Illinois, which also added geographic diversity to the sample.

The research team sought to interview juvenile defenders, prosecutors, probation supervisors, judges, and administrative detention staff in all five states. Additional stakeholders, including policymakers, law enforcement officers, and non-profit and social service representatives, were interviewed based on the suggestion of other interviewees (a technique commonly referred to as "snowball sampling"). In cities with centralized juvenile justice systems, researchers interviewed representatives from state agencies whenever possible. In states with decentralized, or county-specific, juvenile justice systems, researchers spoke with stakeholders from large counties and representatives from at least two counties in each state. In total, UI researchers interviewed 29 stakeholders from the five states.

The protocol for all semi-structured stakeholder interviews included core questions and supplemental questions tailored for specific professions (see Appendix C-3 for the Stakeholder Interview Protocol). The protocol inquired about stakeholders' experience or familiarity with juvenile DNA collection; perceived impacts of juvenile DNA processing on criminal justice processes and public safety, including whether juvenile DNA deters future juvenile misconduct; expungement policies; and overall challenges and lessons learned from their experiences with juvenile DNA.

[29] ***Volume of NDIS Profiles***. Researchers favored states with a larger volume of profiles, where stakeholders were more likely to have experience with the issues surrounding juvenile DNA collection**.** ***Scope/Method of Collection***. States were given priority if they collected from adjudicated juveniles, juvenile arrestees, or employed an otherwise distinctive legislative model, policy, or collection model. ***Diversity.*** Researchers sought a geographic mix of states and a range of statutory enactment dates. ***Existing Relationships.*** All else being equal among states that met the previous criteria, researchers prioritized those states with which they had existing contacts in the CODIS labs or juvenile justice systems.

Appendix C: Detailed Methodology

Analytic Approach

UI researchers used the NVivo qualitative data analysis software to analyze responses from laboratory staff and stakeholder interviews. For each protocol, researchers entered questions and relevant response categories into the software program and then coded responses from each set of interview notes according to response categories. Answers were analyzed in aggregate across state and respondent type to identify trends in responses.

Our analysis of descriptive data was limited by the incomplete information provided by many of the states. CODIS administrators in 13 states responded that they could not fully complete the request, and reported that missing data, especially aggregate demographic data on gender, race, ethnicity, and offense type, were either not recorded upon collection, not uniformly entered into their databases, or could not be extracted from their databases without posing a significant burden on lab staff.

Ten states provided useful information on the volume of juvenile profiles in SDIS and NDIS. Two other states also provided data, but were not able to distinguish between adults and juveniles in their databases. Of the ten states providing data on juveniles, most provided data on the number of hits, aggregated by juvenile and adult, for past years. These data were analyzed to determine the aggregate number of juvenile profiles; the share of total NDIS profiles from all states collecting DNA from adjudicated juveniles that these profiles represented; and the proportion of juvenile and adult profiles and hits per state, per year.

Researchers were able to conduct a more detailed review of juvenile characteristics in two states that provided richer information. Arizona provided a breakdown of juvenile DNA profiles and hits by gender, race, ethnicity, and offense-type data. Using data from Florida, researchers could analyze and examine patterns between offender qualifying offense crimes and the subsequent crimes which matched (or hit) their DNA profiles.

Juvenile DNA Meeting

UI hosted a meeting of practitioners and researchers from the forensic and juvenile justice communities, as well as federal officials, to present the preliminary findings from the project and discuss key issues in juvenile DNA processing. Held at the end of the June 2010 National Institute of Justice (NIJ) research conference, the objective of the meeting was to help ensure that the research implications and policy recommendations were grounded in knowledge from the field and presented in a way that could inform future policy and practice. Participants included independent consultants as well as representatives from the following agencies: Association of Crime Laboratory Directors, American Bar Association (Juvenile Collateral Consequences Study), Defender Association of Philadelphia, National Institute of Justice, Federal Bureau of Investigation, Science Applications International Corporation, and the Urban Institute.

Appendix C: Detailed Methodology

The meeting addressed: the nature and extent of juvenile DNA profiles included in state and federal databases; policies and procedures for juvenile DNA collection, including expungement provisions, and how they differ from those for adults; impacts and ramifications – both anticipated and unanticipated – of juvenile DNA collection; and recommended improvements in policies and procedures.

Appendix C: Detailed Methodology

Appendix C-1: Laboratory Staff Interview Protocol

We are interested in learning how your state's policies and procedures for juveniles differ - - if at all – from those covering DNA samples submitted for adult offenders. We have questions about the general process of how juvenile DNA is collected, processed, and stored, and how profiles are created, uploaded into CODIS, and expunged if necessary. In addition, we want to learn what summary data is retrievable from your data systems/ databases, because we hope to obtain information on the number and characteristics of those juveniles whose DNA profiles are currently within SDIS.

We have a number of questions we'd like to ask you first, and then if there is time we would like to review with you your state's policies to make sure we understand them correctly and that there are no recent changes of which we should be aware.

We are going to use the information we gathered to produce a report for NIJ about this important issue since it has not been explored thoroughly. The report will not have direct quotes or names of those we spoke with, but it will report the policies and practices of each state.

[If asked: I expect the questions will take about 45 minutes.]

1. Can you start by telling us about your role in the lab and what your interaction is with SDIS/CODIS?

Overview of state law/implementation

2. We understand that in your state juveniles (state code) are **eligible/required** to have DNA collected.
3. Do you know when the law was enacted?
    - Probe: were there any particular challenges, was there any resistance initially, or over time?
4. When did collection of DNA from juveniles actually begin?

Sample Collection

5. In what form(s) is the sample collected
    - prompt: buccal swab; blood
6. What triggers the collection of a juvenile offender DNA sample? Is this process automatic or does it require a specific action to be taken (i.e., order by a judge)?
7. At what stage or stages in the judicial process is a DNA sample collected from a juvenile offender?
    - prompt: arrest, adjudication, conviction
8. What agency or agencies are responsible for collecting the juvenile offender DNA sample?
    - prompt: local police, probation agency, detention facility, juvenile court staff, crime lab staff, etc

Appendix C: Detailed Methodology

9. Who/which agency is responsible for confirming that samples are collected from all eligible juvenile offenders? (i.e., auditing sample collection)
    - probe: for adult offenders
10. Does your lab have the ability to differentiate between DNA samples that come from juveniles, adults, and juveniles processed as adults?
11. When a juvenile offender DNA sample is submitted, what additional information is provided?
    - probe: is there a court order, sample submission sheet, fingerprint card or other documentation? What information is included about the offender: name, age, juvenile status, or other demographic characteristics, instant offense, criminal history?
    - probe: is the same information available for both juveniles and adults
    - probe: Can we obtain a copy of the **sample submission cover sheet**

DNA Processing/Analysis

12. Where is the sample analyzed?
    - prompt: state lab, other public lab(s), outsourced
13. If outsourced: Please describe the collection and analysis process for the outsourced juvenile offender DNA sample.
    - prompt: does the outsourcing lab receive the sample directly from the collecting agency, or does the state lab forward it?
    - prompt: how and when is the state lab notified that a juvenile offender DNA sample has been taken?
    - prompt: what information is provided to the state lab by the outsourcing lab (profile, offender information)
14. What is the lab's current backlog and how much of a time lag is there between receiving a sample and analyzing it (and uploading it into CODIS)?
    - How are samples prioritized for analysis?
15. Are the policies regarding the storage and protection of DNA samples and the associated identifying information any different for juveniles and adults?
    - How are samples stored?
    - How long are they stored for?

Databases

16. What information, in addition to the actual DNA profile of a juvenile offender is entered into CODIS?
17. Do you categorize a profile as belonging to either an adult or juvenile in either database? [We understand that there is a sample category in CODIS that permits states to identify juveniles.] If so, on what basis?
    - prompt: age; juvenile or adult court status?
    - Have policies changed since juveniles were allowed in NDIS (2004)?
18. How is the juvenile offender profile linked to information on the offender kept outside of CODIS?
    - probe: Is there a separate database that contains the offender profile ID # as well as information on the identity of the offender?
    - probe: Is this database maintained by the lab?

- probe: What information is recorded in the database?

19. When you get a "hit," is the verification/confirmation process any different for a juvenile or adult?
    - How many hits does the lab usually deal with?
    - Have there been any problems with coordinating with the juvenile justice agencies in confirming the qualifying offense?
20. Have you had any experience with juvenile records being expunged or sealed – does this have any effect on juvenile DNA profiles?
21. Are there juvenile offender profiles in SDIS that by State law or policy are not submitted to NDIS although they would be eligible?
    - probe: If so, what type?

Expungement

22. How does the expungement request process work for juvenile offenders?
    - probe: How are you informed that a profile needs to be expunged? Are there specific documentation requirements (e.g., judicial order)?
    - probe: What categories of juvenile offenders are **eligible** to have their DNA profiles removed?
    - probe: Are any categories of juvenile offenders **required** to have their DNA profiles expunged?
    - probe: Do any expungements happen "automatically"? If so, how does this occur?
    - probe: Does responsibility for pursuing expungement rest with the offender?
23. What is the actual method of expungement?
    - probe: is the profile removed from CODIS at all levels (SDIS, NDIS, and LDIS)?
    - probe: are any electronic or paper records destroyed, or is the identifier linking them to SDIS removed?
    - probe: Under what circumstances would the DNA sample itself be expunged or destroyed?
    - Have any expungements occurred?

Challenges/Lessons Learned

24. What do you see as the biggest challenges in collecting and analyzing juvenile DNA? Are there any lessons learned from these first few years of juvenile DNA collection that can help policymakers or practitioners as collection mandates expand or move to new states? Is the field moving in any particular direction when it comes to juvenile DNA?
    - Other states mentioned issues with linking hits to offender records, issues with the increased volume…

Descriptive Data Request

25. We'd like to collect summary descriptive data on the adult and juvenile offenders contained in SDIS and uploaded into NDIS from your state. Specifically we are interested in the number of adult and juvenile profiles in CODIS, the number of matches to juvenile and adult profiles, and the demographic characteristics of

those offenders (age, gender, race, etc.). Could we discuss in what form this data might be available and how best to go about requesting it?

- Something that the lab could work with us to produce? Something that we would need to talk to another agency about?
- Could they estimate the proportion of samples in SDIS and NDIS that were collected from juveniles?

Well, thank you very much, ***X***. Those are all the questions I had for you. Is there anything else you think we should know about juvenile DNA practices in your state? Did you have any questions for me? I greatly appreciate your taking the time to speak with me today. Let me give you my contact information if you need to reach me with any additional questions or anything you want to add. ***(Give email & phone)***. Feel free to contact me, and I'll be in touch with you (or the person identified as most appropriate) later about the data request I mentioned earlier. Thank you very much, again.

Appendix C: Detailed Methodology

Appendix C-2: Laboratory Data Request

Please provide the following summary descriptive statistics concerning the population of individuals included in your state's CODIS database (SDIS) and submitted by your state to the national CODIS database (NDIS).

We are not requesting information on the actual DNA profiles stored in the SDIS and NDIS systems or individual-level record data of any kind, and specifically request that you refrain from submitting any data of this type. To do so would violate the human subjects protections that have been developed for this project.

SNAPSHOT AS OF 12/31/08

# of juvenile[30] profiles in SDIS - as of 12/31/08
# of juvenile profiles in NDIS - as of 12/31/08
# of adult[31] profiles in SDIS - as of 12/31/08
# of adult profiles in NDIS - as of 12/31/08
# of forensic samples[32] in SDIS – as of 12/31/08
# of forensic samples in NDIS – as of 12/31/08
# of investigations aided – as of 12/31/08

Distribution of juvenile profiles in SDIS by gender, race, and ethnicity - as of 12/31/08
Distribution of juvenile profiles in NDIS by gender, race, and ethnicity - as of 12/31/08
Distribution of adult profiles in SDIS by gender, race, and ethnicity - as of 12/31/08
Distribution of adult profiles in NDIS by gender, race, and ethnicity - as of 12/31/08
Distribution of juvenile profiles by offense type - as of 12/31/08
Distribution of adult profiles by offense type - as of 12/31/08

CALENDAR YEAR 2008

# of juvenile profiles added to SDIS during 2008
# of juvenile profiles added to NDIS during 2008

[30] Definitions in order of preference: (1) profiles for juveniles handled in juvenile court; (2) profiles for individuals under state age of majority; (3) or profiles for individuals under age of 18. **Please specify definition used.**

[31] Definitions in order of preference: (1) profiles for individuals handled in adult criminal court; (2) profiles for individuals over state age of majority; (3) or profiles for individuals over age of 18. **Please specify definition used.**

[32] Forensic samples are also known as DNA profiles collected at a crime scene.

Appendix C: Detailed Methodology

of adult profiles added to SDIS during 2008
# of adult profiles added to NDIS during 2008

# of hits for juveniles during 2008
    # of in-state hits for juveniles during 2008
    # of out-of-state hits for juveniles during 2008
    Broken down by offense type

# of hits for adults during 2008
    # of in-state hits for adults in 2008
    # of out-of state hits for adults in 2008
    Broken down by offense type

# of juvenile profiles expunged during 2008
# of adult profiles expunged during 2008

PREVIOUS YEARS

# of juvenile profiles added to SDIS by year (2007, 2006,2005)
# of juvenile profiles added to NDIS by year (2007, 2006, 2005)
# of adult profiles added to SDIS by year (2007, 2006, 2005)
# of adult profiles added to NDIS by year (2007, 2006,2005)
# of hits by year (juvenile) (2007, 2006, 2005)
# of hits by year (adult) (2007, 2006, 2005)

Appendix C: Detailed Methodology

Appendix C-3: Stakeholder Interview Protocol

Thank you for taking the time to speak with us today. As we mentioned before, we are working on a project for the National Institute of Justice that examines the issues surrounding the policies and practices governing DNA collection from juveniles. As part of this project, we are conducting interviews with stakeholders from across the criminal justice system, including policymakers, juvenile courts, and juvenile detention, as well as with representatives from your state's DNA lab and local law enforcement. The issues surrounding juvenile DNA collection have not been explored thoroughly in the past, and the information gathered from these interviews will be used to produce a report for criminal justice practitioners and policymakers that describes the various ways that juvenile DNA is collected and used across the country. Information you share with us today may be used in our final report, but we will seek your approval before identifying you by name or position.

Before we begin, let me go over what we will be talking about today. The questions we will ask you will cover your experience in the juvenile justice system, your responsibilities as a (position title), what experience (if any) you have with DNA collection, and your views on the effects of juvenile DNA collection. We understand that some of these questions may be outside of your general scope of work, but please give us the best information you can. We expect the interview will take about 45 minutes.

Background Information

1. Can you confirm your title and agency/department for me, please?
2. How many years have you worked in your current position?
3. How many years have you worked in the juvenile justice system (or: how many years has your work involved representatives from the juvenile justice system)?
4. Can you provide a brief description of your responsibilities as a (insert position title)?

Role in DNA Process

5. How, if at all, do you interact with juvenile DNA samples or juveniles from whom DNA has been collected?
    - PROMPT: adjudicated delinquents on charges that would be felonies, juvenile sex offenders, other qualifications within state (SEE LAW)

6. Is your agency responsible for collecting DNA from juveniles?
7. *If agency does collect:*
    - If so, can you explain the juvenile DNA collection process to us?
    - What triggers DNA collection?
    - Do you have a way of checking for duplicate samples?
    - Do you have procedures for ensuring that all individuals eligible for DNA sample collection have had samples collected?
    - Do you maintain records on which juveniles/clients have DNA samples in the state databank?

Appendix C: Detailed Methodology

i. For law enforcement: juvenile arrestees?
ii. For courts: juvenile suspects? Adjudicated delinquent?
iii. For supervision: clients?
iv. For detention staff: detainees?

- How are these records kept?
  i. Electronic database? Files?
- Do you share these records with other agencies? How?

8. *If agency does not collect:*
   - Are you aware of how the DNA collection process works in your state?
   - How, if at all, do you work with the collection agency to share/obtain information about juvenile DNA profiles?

Policy and Implementation (if possible)

9. Are you familiar with the laws requiring the collection of DNA from juveniles? We understand that in your state juveniles adjudicated delinquent/arrestees are **eligible/required** to have DNA collected. To your knowledge, is this accurate?
10. Do you know what year DNA collection from juveniles actually began in your jurisdiction?
11. What impacts, if any, do you think collection of juvenile DNA has had in your jurisdiction?
    - Prompt (Positive): Increased ability/efficiency of juvenile justice system?
    - Prompt (Negative): Undue burden on justice system?
12. [if limited collection] Do you think the set of qualifying offenses for juvenile DNA collection are too limited, just right, or not limited enough?
    - What changes would you recommend?
13. [if identical to adults] Do you think DNA collection from offenders is just right, too limited, or not limited enough?
    - Should juveniles be handled differently from adults? If so, how?
14. Do you know if there has been any resistance to the law that allows/requires juvenile DNA collection, either at the time the law was passed or over time?
15. Were there other challenges to juvenile DNA collection or other implementation issues? Any unanticipated problems or benefits?
16. What, if any, changes would you recommend to the existing policy?

DNA Collection and Processing

17. Do you play a role in sample collection from juveniles?
    - [if no, skip next question]
    - What challenges, if any, have you faced (or heard of) involving DNA sample collection from juveniles?
18. Is there a backlog of offender samples in your state? In your opinion, how does a backlog of DNA samples at the lab impact the juvenile justice system? How does it affect your job specifically?
    - How should offender samples be prioritized for analysis?

Hits, Investigations Aided, and Perceived Benefits

19. Do you know of any cases in which DNA collected from juveniles have been used in investigations, adjudications, or trials?
    - Can you provide examples of an investigation that was aided by identifying a juvenile who had provided DNA?
    - How is DNA evidence typically utilized for these purposes?
20. In your opinion, what are the benefits and drawbacks of juvenile DNA collection?
21. How do you think the collection and maintenance of juvenile DNA profiles impacts public safety in your state?

Expungement

22. Are you aware of the current expungement policies for [juvenile] DNA profiles in your state? Please explain these policies to us, as you understand them.
    - Prompt: If not, we should provide basic information
23. Are you aware of any expungements of juvenile DNA profiles?
24. Do you have any experience in the expungement of juvenile records generally?
25. It is our understanding that, unlike many other kinds of juvenile records that are automatically expunged after a certain period of time, JDNA profiles are maintained in the state DNA databank indefinitely unless expungement is expressly requested. How do you believe this policy affects the juvenile justice system? Juvenile offenders and their families?
26. Do you believe that juvenile DNA profile expungement should be treated similarly or differently to adult DNA expungement? Why?
27. In your experience, what challenges do these expungement policies present, if any?
    - Prompt: Undue burden on courts?
    - Prompt: Undue burden on juvenile offenders and their families?
28. What changes would you make to the expungement policies, if any?
29. *For agencies with criminal justice records:*
    - Do you have an ongoing relationship with the state laboratory that collects DNA profiles from juveniles?
    - Are you in contact with them to ensure that all samples are collected and to verify the identities and qualifying offenses of any “hits” on juvenile profiles?
    - If a juvenile’s record has been expunged from the criminal justice/juvenile justice database, what would happen when the lab contacted the juvenile justice agency for verification?

Challenges/Lessons Learned

30. What do you see as the biggest challenges in collecting and analyzing juvenile DNA?
31. Are there any lessons learned from your experience with juvenile DNA collection that can help policymakers and practitioners make decisions as collection mandates expand? Is the field moving in any particular direction when it comes to juvenile DNA?
32. What advice would you give a state that is considering including or expanding DNA collection from juveniles?

Appendix C: Detailed Methodology

SEE SUPPLEMENTAL QUESTIONS BY POSITION

33. Can you think of anyone else in *(State)* who is involved with DNA collection or who may be able to provide additional insight into the issues surrounding juvenile DNA collection and use?
    - Names, Numbers

Thank you very much for your time. Those are all the questions I had for you. Is there anything else you think we should know about juvenile DNA practices in your state? Did you have any questions for me? Let me give you my contact information if you need to reach me with any additional questions or think of anything else you would like to add to your comments today. ***(Give email & phone)***. Feel free to contact me, and I'll be in touch with you (or the person identified as most appropriate) later about the data request I mentioned earlier. Thank you very much, again.

LEGISLATORS/POLICY MAKERS

1. We understand that you sponsored/co-sponsored a bill to include juvenile DNA in the state DNA databank. Is this accurate?
2. When was the bill introduced? Passed?
3. What caused you to sponsor/co-sponsor the bill? Was there a specific event or issue that inspired you to take action?
4. What was the original purpose/goal of including juvenile DNA in the state DNA databank?
    - If expansion: what motivated the expansion of the DNA databank to include: arrestees, expanding qualifying offenses, etc.
5. Do you think the law has accomplished that/these goal(s)? Why or why not?
6. What information do you have about the implementation of the laws? Do you receive any regular reports?
7. What individuals/interest groups supported the legislation?
8. What individuals/interest groups opposed the legislation?
9. What were the reactions to the legislation from the public?

JUVENILE JUDGES

1. Are you aware if juvenile suspects have DNA samples on file? If so, how can you tell?
    - access to electronic criminal records
    - access to lab records
    - regular reports run
1. Is it your responsibility to order DNA collection from juvenile suspects, or has DNA already been collected by the time you see the juvenile suspect?
2. If you adjudicate a juvenile delinquent, do you order DNA collection or is DNA collection occur automatically at the detention facility?
3. Can you order DNA collection from juveniles sentenced to diversion?
4. If you do order DNA collection from juveniles, for about what percentage of cases do you do so?

Appendix C: Detailed Methodology

5. Who is responsible for determining whether DNA needs to be collected?
    a. Prompt: clerk, probation officer, detention facility (or law enforcement if earlier…)
6. Have any juveniles – or defenders for juveniles – objected to providing DNA samples? Circumstances and outcomes?
7. Are judges typically for or against the collection and use of juvenile DNA?
    a. What are the arguments for/against?
8. How often would you say juvenile DNA evidence is used in juvenile proceedings?
9. In your opinion, how has juvenile DNA collection impacted the outcome of cases/trials involving juveniles?
10. Do you believe juvenile DNA collection has had an impact on juvenile recidivism?

JUVENILE ATTORNEYS (Prosecutors/Defenders)

1. Are you aware if your clients have DNA samples on file? If so, how can you tell?
    - access to electronic criminal records
    - access to lab records
    - regular reports run
2. Have you prosecuted/defended a case in which juvenile DNA evidence was used?
    - How was juvenile DNA evidence used?
    - Hypothetically, how would not having DNA evidence have changed the trial/outcome?
3. *Defense Attorneys Only*:
    - Have you ever had a client from whom DNA was collected?
    - Have you ever objected to the collection of DNA from juveniles?
    - Have you ever requested expungement of juvenile DNA profiles?
    - How do you think collecting DNA impacts clients?
4. Do you believe that DNA collection from juveniles has helped close cases that would have otherwise remained open due to insufficient evidence?
5. Has juvenile DNA collection impacted the juvenile justice system in other ways?
6. Do attorneys in your state ever argue for or against collecting DNA from juveniles?
    a. What are the arguments on each side?

JUVENILE PROBATION

1. Are you aware if your clients have DNA samples on file? If so, how can you tell?
    - access to electronic criminal records
    - access to lab records
    - regular reports run
2. How do you think collecting juvenile DNA has impacted the juvenile justice system (investigations, trials)?
3. Do you believe that having a DNA profile in the state databank deters juveniles from committing future crimes?
4. Do you think juvenile DNA collection has impacted public safety? How?

JUVENILE DETENTION STAFF

Appendix C: Detailed Methodology

1. Are you aware if your clients have DNA samples on file? If so, how can you tell?
    a. access to electronic criminal records
    b. access to lab records
    c. regular reports run
2. Do you detain pre-adjudicated delinquents as well as post-adjudicated delinquents?
3. Do you think collecting DNA from juveniles deters them from committing crime? How?

LAW ENFORCEMENT

1. In your opinion, has juvenile DNA collection helped law enforcement agencies identify suspects?
2. Do you believe that juvenile DNA evidence collected by law enforcement agencies has helped close cases that would have otherwise remained open?
3. Do you believe juvenile DNA collection has improved public safety?
4. Are law enforcement officers typically for or against juvenile DNA collection? Why?

SOCIAL WORKER (Juvenile Social Service Agencies)

1. Are you able to identify whether your juvenile clients have DNA profiles in the state DNA databank? How do you identify these profiles?
2. Can you tell us if there are any differences between juveniles who have profiles in the databank and those who do not?
3. How do you think DNA collection impacts the lives of your juvenile clients?

Appendix D: Individual State Synopses

Juvenile DNA collection laws, policies, and procedures are determined at the state level. As a result, there are important variations among, and distinct challenges faced by, the 30 states included in the study. Researchers compiled the following state synopses based on interviews with state CODIS laboratory staff and a review of applicable state laws governing collection from juveniles. Each state profile contains:

- citations for relevant authorizing and expungement laws,
- number of total CODIS offender profiles, as of July 2010[33],
- a brief history of when and for which offenses juveniles were first included in the state's DNA law(s),
- qualifying offenses for juvenile DNA collection, collection procedures, and expungement policies,
- hit procedures, and
- challenges and lessons learned during implementation.

The profiles are presented to highlight certain aspects of each state's experience with juvenile DNA collection and to permit comparisons across states. By their very nature, the state profiles do not capture all the nuances of relevant state laws, policies, and procedures.

The following terms are used in the synopses.

Glossary of Terms Used

Adjudication: Adjudication is the court process that determines (judges) if the juvenile committed the act for which he or she is charged. The term "adjudicated" is analogous to "convicted" and indicates that the court concluded the juvenile committed the act.[34]

Buccal Swab: A buccal swab is a swab of the inside cheek of the offender, used to collect DNA without the requirement of drawing blood.

CODIS: CODIS refers to the Combined DNA Index System, a software system housing a cross-state database of DNA profiles. The system is able to compare profiles from known offenders, crime scenes, and missing persons and report matches.

Conviction: Conviction refers to the determination of guilt or responsibility of an individual processed in the adult criminal court, and can be used for either adults or juveniles charged as adults.

---

[33] Federal Bureau of Investigation. (July 2010) *CODIS-NDIS Statistics*. Retrieved from http://www.fbi.gov/hq/lab/codis/clickmap.htm.

[34] Office of Juvenile Justice and Delinquency Prevention, Statistical Briefing Book (2010) Retrieved: http://www.ojjdp.gov/ojstatbb/structure_process/faqs.asp. Accessed Sept 25, 2010.

Appendix D: State Synopses

Disposition: Disposition refers to the final settlement of a criminal proceeding in the adult criminal or juvenile court.

Expungement: Unless otherwise noted in the state synopsis, an expungement is the official removal or destruction of a sample and the removal or deactivation of a profile that was legally included in CODIS but has become legally eligible for removal. All states have a procedure for administrative removal of samples that were collected or entered in error.

Hit: A hit refers to the matching of two DNA profiles entered in CODIS, typically a known offender profile to an unknown forensic sample.

Juvenile: For the purposes of this report, a juvenile is an individual processed in the juvenile justice system, including juvenile and family courts. The upper age of juvenile court jurisdiction varies by state.

LIMS: LIMS refers to the Laboratory Information Management System, a stand-alone database maintained by the state CODIS lab that includes the personal and demographic information on offenders in CODIS. LIMS is used in this report as a generic term – not all state laboratories use the term to refer to their database. A unique identifier, such as a lab assigned ID number or barcode, links LIMS information to CODIS. State ID numbers or corrections numbers may be used to link LIMS information to criminal history databases.

Profile: A profile is the electronic record generated from the analysis of the DNA sample, used for entry into CODIS.

Sample: A sample is the biological material that contains DNA, either in the form of blood or a buccal swab.

Appendix D: State Synopses

Alabama

Authorizing Law: Ala. Code § 36-18-24, § 12-15-102, § 15-20-27
Expungement Law: Ala. Code § 36-18-26
CODIS Offender Profiles: 183,963

History
Juveniles were first included in 1994 for limited sex offenses.

Juvenile DNA Processing
Qualifying offenses: The scope of the law is expanding in October 2010 to include sex offenses and a new set of felony offenses, including felony arrestees.
Collection agencies and procedures: Samples are collected using a blood or buccal swab sample, and collection is triggered when a juvenile is adjudicated for a qualifying offense. Juvenile samples come from either Family Court, Juvenile Probation, or the Department of Youth Services. Samples are processed in the lab, and information is entered into a local database (including juvenile status) and submitted to CODIS. Juveniles were only flagged in databases prior to 2004.
Expungement: The lab has not expunged records recently. The lab director is authorized to expunge records upon request if a conviction or adjudication is overturned.

Hit Procedures
When a hit occurs, the lab reanalyzes the sample, confirms the information, and reports the hit to the laboratory with the hit against forensic sample. The lab handles 45-60 hits per month for adults and juveniles combined.

Challenges and Lessons Learned
The state does not report any problems or unique challenges to collecting juvenile DNA, though this may be due to the limited scope of collection.

Alaska

Authorizing Law: Alaska Stat. § 44.41.035
Expungement Law: Alaska Stat. § 44.41.035
CODIS Offender Profiles: 19,852

History
Juveniles were first included in 1996.

Juvenile DNA Processing
Qualifying offenses: Juveniles, aged 16 or older when the offense was committed, must submit DNA for the same offenses as adults, including all felonies and a selection of violent and sexual misdemeanor offenses. Adult arrestees are included, but juvenile arrestees are not.
Collection agencies and procedures: Samples are collected using buccal swabs by the probation agency, detention facility or patrol officer. Collection agencies are responsible for ensuring that they collect only from qualifying offenders. Samples are analyzed in the State CODIS Lab and entered into a LIMS and CODIS.
Expungement: Expungement occurs upon receipt of a court order. Electronic records in the LIMS are made unsearchable by removing all personally identifiable information, and the profile is removed from CODIS.

Hit Procedures
When a hit occurs, the State CODIS Lab verifies the qualifying offense, confirms the fingerprint, and re-analyzes the sample to verify profile accuracy. The lab handles 5-10 hits per month for adults and juveniles combined.

Challenges and Lessons Learned
The state does not report any problems or unique challenges to collecting juvenile DNA, and with the exception of arrestees does not treat juveniles differently from adults.

Appendix D: State Synopses

Arizona

Authorizing Law: Ariz. Rev. Stat. § 13-610
Expungement Law: Ariz. Rev. Stat. § 13-610
CODIS Offender Profiles: 177,780

History

Juveniles were first included in 1995 for select sexual offenses.

Juvenile DNA Processing

Qualifying offenses: Juvenile qualifying offenses are slightly more restricted than adult offenses, and include all felonies and select misdemeanors. Juvenile and adult arrestees also submit samples.
Collection agencies and procedures: Juvenile correction centers and probation are responsible for purchasing State CODIS Lab approved collection kits, collecting samples, and ensuring compliance. Arrestee samples are collected at bookings. DNA is collected via buccal swab and analyzed in the State CODIS Lab.
Expungement: Individuals are eligible to petition for expungement if their conviction or adjudication is overturned. Arrestees are eligible if criminal charges are either not filed or dismissed, or the person is acquitted. When it receives an order to expunge, the State CODIS Lab verifies that there are no other qualifying offenses, removes the profile from CODIS, and destroys remaining samples. No expungements have occurred under a new law passed in 2008 that authorized arrestees and restricted the grounds for expungement; 72 were completed under the original 2004 law.

Hit Procedures

When a hit occurs, the laboratory reanalyzes the sample and confirms that it is legitimately in the database by searching criminal history and court records.

Challenges and Lessons Learned

Juvenile offenders are not included in the criminal history database, so confirming juvenile qualifying offenses is more difficult and requires the extra step of calling the submitting agency. For court ordered collections, the state has also faced challenges with determining which agencies are responsible for collection and compliance.

Arkansas

Authorizing Law: Ark. Code Ann. § 9-27-357 (a)
Expungement Law: Ark. Code Ann. § 12-12-1113
CODIS Offender Profiles: 108,597

History

Juveniles were first included in 2003 for a small number of offenses, and there was some hesitation at the time to adding juveniles.

Juvenile DNA Processing

Qualifying offenses: Qualifying offenses have not been expanded since 2003 and include juveniles adjudicated for a limited set of offenses.
Collection agencies and procedures: Collection agencies are in the process of switching from blood to buccal swab collection. Collection is triggered when a juvenile is adjudicated and occurs at probation or a detention facility. Juvenile samples are flagged at intake, but are not processed differently than adult samples. Currently all samples are processed in-house with a turnaround time goal of approximately 30 days and stored indefinitely. Identifying information is kept in a State CODIS Lab database and profiles are submitted to CODIS.
Expungement: The State CODIS Lab requires a court order to expunge and proof that the offense was overturned and that there are no other qualifying offenses. Sealing of a juvenile record would have no effect on DNA samples. There have not been any expungements.

Hit Procedures

If a hit occurs, the State CODIS Lab will re-test the sample, check the biographical information, and confirm the fingerprint before providing information.

Challenges and Lessons Learned

There have been issues obtaining information on juvenile records to confirm qualification and identity, and there have been cases in which a sample or hit is received but the lab is unable identify the individual satisfactorily.

Appendix D: State Synopses

California[35]

Authorizing Law: Cal. Penal Code § 296, §295
Expungement Law: Cal. Penal Code § 299
CODIS Offender Profiles: 1,287,074

History
Juveniles were included in the original DNA Forensic Identification and Data Bank Act of 1998.

Juvenile DNA Processing
Qualifying offenses: Qualifying offenses for juveniles and adults include all felony and attempted felony offenses, registered sex offenders, those imprisoned or confined in a state correctional institution or county jail, or by court order. Adults must submit samples following arrest for all felonies or offenses requiring registration as a sex offender.
Collection agencies and procedures: Authorized collection agencies include county jails, county facilities, private community correctional facilities, and the county sheriff. Individuals are obligated to provide buccal swabs, fingerprints, a full palm impression, and blood specimens.
Expungement: If the conviction, adjudication, or disposition is reversed and the case is dismissed; if the defendant is found to be factually innocent or not guilty; or if the defendant is acquitted, the court that reverses sends an expungement order to the DOJ lab director. An individual can also initiate an expungement hearing through a written request to the court, State CODIS lab, or DA.

Hit Procedures
Hit procedures are not indicated in the relevant legislation.

Challenges and Lessons Learned
Researchers were unable to speak to the state about implementation.

Colorado

Authorizing Law: Colo. Rev. Stat. Ann. § 19-2-925.6
Expungement Law: Criminal Proceedings Code §15.23.105
CODIS Offender Profiles: 125,425

History
Juveniles were initially included in 1999 for sexual offenses.

Juvenile DNA Processing
Qualifying offenses: Juvenile offenses are more restricted than adult offenses and include felonies and unlawful sexual behavior. Adult arrestees are included, but not juvenile arrestees.
Collection agencies and procedures: Samples are collected using buccal swabs by probation, community corrections, and the Division of Youth. Samples are analyzed in the State CODIS Lab, and information is maintained in a local database and in CODIS.
Expungement: Offenders must request expungement from the Colorado Bureau of Investigation. The State CODIS Lab will remove the profile from CODIS, destroy remaining samples, and replace identifying information in the local database with designation “expunged” . No juvenile expungements have occurred.

Hit Procedures
When a hit occurs, the lab reanalyzes the sample, verifies the fingerprint, and confirms qualifying offenses. The lab processes 200-250 hits annually.

Challenges and Lessons Learned
There has been confusion regarding juvenile legislation, as components of authorizing legislation are not codified together and were written in a piecemeal fashion.

[35] Information on California comes from a review of relevant legislation; researchers were unable to reach laboratory staff for an interview.

Appendix D: State Synopses

Florida

Authorizing Law: Fla. Stat. Ann. § 943.325
Expungement Law: Regulated by administrative rule
CODIS Offender Profiles: 701,253

History

Though juveniles were never statutorily prohibited from being collected, they were first specifically authorized in 1994 and have been actively collected since 1997.

Juvenile DNA Processing

Qualifying offenses: The qualifying offenses for adults and juveniles are the same and include all felonies and select sexual misdemeanors. Legislation to expand collection to all individuals arrested for felony offenses is pending in the state.
Collection agencies and procedures: DNA sample collection is triggered when a juvenile is adjudicated, and collection occurs at the courthouse. In some counties, detention centers also collect DNA. Samples are collected using a buccal swab, and the Department of Corrections and State CODIS Lab communicate regularly to prevent duplication. Analysis is conducted in the State CODIS Lab.
Expungement: Individuals initiate expungement, and a court order is required. In the event of an expungement, the lab verifies that there are no other qualifying offenses, removes the DNA profile from CODIS, destroys the remaining sample, and retains information in the local laboratory. No expungements have occurred since the law was expanded to include felonies that occurred prior to passage of the law as qualifying offenses.

Hit Procedures

When a hit occurs, the lab confirms that the case is unresolved and then reanalyzes the juvenile sample to confirm the match.

Challenges and Lessons Learned

In the state of Florida, judges have discretion to divert juveniles following adjudication. If a juvenile is diverted in this manner, they are still required to submit a DNA sample. The lab reports difficulty in educating collection agencies of this requirement. Sample collections increased dramatically when a saliva sample was approved as an alternative collection method to a blood draw.

Illinois

Authorizing Law: 730 Ill. Comp. Stat. Ann. § 5/5-4-3
Expungement Law: 730 Ill. Comp. Stat. Ann. § 5/5-4-3
CODIS Offender Profiles: 373,265

History

Juveniles were first included in 1990.

Juvenile DNA Processing

Qualifying[36] offenses: Eligible offenses for adults and juveniles are the same and include all felonies and one sexual misdemeanor. A court order can also trigger collection.
Collection agencies and procedures: Juveniles submit buccal swab samples. Upon receipt, the State CODIS Lab confirms that the offense listed is eligible and analyzes the sample. Juveniles are marked in CODIS and in the local database. Information on juvenile samples is not uploaded into the state police criminal history network.
Expungement: Expungement is prompted by court order only on the grounds of actual innocence. If the lab receives an expungement order, they remove the profile from CODIS and the identifying information from the local database and then destroy remaining samples.

Hit Procedures

When a hit occurs, the lab confirms that the offense qualified for inclusion, reanalyzes the sample, and confirms the fingerprint.

Challenges and Lessons Learned

At times, the laboratory has had difficulties confirming that juveniles are adjudicated of an eligible offense, since juvenile information is not usually released. In at least one county, the State CODIS Lab developed a procedure with the State's Attorney to protect the confidentiality of both sides.

[36] In Illinois law, the term “Qualifying Offense” has a specific legal definition. The set of all offenses for which DNA collection is authorized are known as eligible offenses.

Appendix D: State Synopses

Iowa

Authorizing Law: Iowa Code Ann. § 81.2, 232.52
Expungement Law: Iowa Code Ann. §§ 81.9, 81.1
CODIS Offender Profiles: 59,697

History
Juveniles were first included in 2005 for offenses equivalent to qualifying adult offenses.

Juvenile DNA Processing
Qualifying offenses: DNA is required for all felonies, a limited number of sexual misdemeanors, and additional instances at the discretion of the court and parole board.
Collection agencies and procedures: Samples are collected via buccal swab after a juvenile is adjudicated. Samples are processed in the State CODIS Lab, and the generated profile is entered into CODIS and a local database.
Expungement: An individual must notify the lab and provide documentation that the qualifying offense was overturned. The sample and profile are destroyed. No expungements have occurred.

Hit Procedures
When a hit occurs, the State CODIS Lab reanalyzes the sample, confirms the fingerprint, and consults the criminal history to verify adjudication.

Challenges and Lessons Learned
There have been issues surrounding deferred judgment for juveniles, as the State CODIS Lab will maintain the sample even after conditions have been met and the underlying juvenile records have been sealed or expunged.

Kansas

Authorizing Law: Kan. Stat. Ann. § 21-2511
Expungement Law: Kan. Stat. Ann. § 21-2511
CODIS Offender Profiles: 67,152

History
Juveniles were first included in 1992 for violent offenses.

Juvenile DNA Processing
Qualifying offenses: Juveniles and adults have the same qualifying offenses, including all felonies and select sexual and violent misdemeanors. Juvenile and adult arrestees are also included.
Collection agencies and procedures: Samples are typically collected during intake or booking at a detention facility using buccal swabs. Samples are then processed in-house and prioritized by date of receipt.
Expungement: If charges are not filed (for arrestees), if the individual is acquitted, or if the conviction or adjudication is overturned, the individual is eligible to petition the Kansas Bureau of Investigation for expungement.

Hit Procedures
When a hit occurs, the State CODIS Lab reanalyzes the sample, which is maintained in-house, and has a second confirmation sample collected from the offender and analyzed to ensure identity.

Challenges and Lessons Learned
Kansas's phased-in approach to introducing arrestee DNA collection, including juveniles, created additional confusion and burdens. In order to increase compliance, the State CODIS Lab is attempting to create a feedback loop with collecting agencies to demonstrate the value of the samples submitted.

Appendix D: State Synopses

Kentucky

Authorizing Law: Ky. Rev. Stat. Ann. § 17.170
Expungement Law: Ky. Rev. Stat. Ann. § 17.175
CODIS Offender Profiles: 27,165

History

Juveniles adjudicated for sex offenses and burglaries were first included in 2006.

Juvenile DNA Processing

Qualifying offenses: Currently, only juveniles 14 and older who have been adjudicated for certain felony sexual offenses or are registered sex offenders are eligible for DNA collection.
Collection agencies and procedures: Samples are collected via buccal swab following adjudication. Samples are collected at juvenile detention facilities, though no agency is responsible for confirming that all eligible samples have been collected. Samples are processed in the State CODIS Lab, which currently has a backlog. A recent legal decision concerning the constitutionality and appropriateness of juvenile collection determined that DNA collection was permitted from juveniles subject to date restrictions and not including burglary offenses, for which adults are eligible. The lab is now working to identify and remove the necessary samples, and will then resume collection and CODIS upload of eligible juvenile samples.
Expungement: Juveniles are eligible to initiate expungement if their cases are reversed or dismissed or if they undergo pretrial diversion. A written request and certified copy of the relevant court order is required. Only a few expungements have occurred. Identifying information, sample, and profile are removed and destroyed.

Hit Procedures

When hits occur, lab staff confirm qualifying offenses by reviewing the criminal history, reanalyze the sample, and confirm identity by checking fingerprints against AFIS.

Challenges and Lessons Learned

Including proper and accurate wording in the statute and solidifying cooperation of involved parties are essential to avoid legal logjams.

Louisiana

Authorizing Law: La. Rev. Stat. Ann. § 15:609
Expungement Law: La. Rev. Stat. Ann. § 15:614
CODIS Offender Profiles: 105,060

History

Juvenile offenders have not been distinguished in offender laws in Louisiana; therefore, juvenile samples were collected from the beginning of the DNA collection program in 2001.

Juvenile DNA Processing

Qualifying offenses: Juveniles arrested or adjudicated delinquent for acts that would be felonies in adult court and for select sexual or violent misdemeanors are eligible for collection.
Collection agencies and procedures: DNA collections are obtained by local jurisdictions through trained police and sheriff department staff, as well as by correctional facilities and probation and parole officers. To reduce duplicate collections, Louisiana is in the process of connecting its LIMS to criminal justice data systems, such as AFIS, to inform collectors that DNA is already on file. At this time, offender samples are analyzed by outsource vendor labs. State CODIS Lab analysts review all data before it is uploaded to CODIS. Confirmation analysis is conducted in-house.
Expungement: Offenders are eligible to request expungement if their arrest does not lead to adjudication or if their adjudication is reversed. All records, identifiable information, and samples are deleted upon receipt of a written request and a court order. The State CODIS Lab has expunged fewer than 10 profiles.

Hit Procedures

Louisiana has two dedicated staff positions to assist DNA analysts in the documented confirmation procedure and tracking of CODIS hits. Special emphasis has been placed on obtaining information to ensure timely follow-up on all hit notifications issued by the laboratory.

Challenges and Lessons Learned

Access to juvenile justice databases to verify collection data has been very restricted to ensure privacy of juvenile records.

Appendix D: State Synopses

Maine

Authorizing Law: Me. Rev. Stat. Ann. 25 §§ 1572, 1574
Expungement Law: Me. Rev. Stat. Ann. 25 § 1577
CODIS Offender Profiles: 14,730

History

Juveniles were first included in the law in 1996, but the term "convicted" was used instead of "adjudicated," so collection of juveniles was halted in 2001. Adjudicated juveniles were authorized for collection again in 2004.

Juvenile DNA Processing

Qualifying offenses: Offenses are more restricted for juveniles than adults, and include 14 violent or sexual offenses.
Collection agencies and procedures: Buccal swab samples are collected by a variety of agencies following adjudication, including the state Department of Corrections, prisons, probation, and municipal jails. Samples are processed at an outsourced lab, and the size of the backlog varies from 6 months to 1 year, depending on the NIJ grant cycle.
Expungement: Offenders may petition the court for an expungement order in the event of a case reversal or dismissal. Sample, profile, and identifying information are all removed and destroyed. Few expungements, if any, have occurred.

Hit Procedures

When a hit occurs, the State CODIS Lab verifies the match and offense, retests the stored sample, and then collects and processes a new sample from the identified individual.

Challenges and Lessons Learned

Getting the language right in the original law is very important. Due to the original error, considerable confusion surrounded the collection of juvenile DNA at the submitting agencies. Passing laws concerning juveniles is always a challenge, and passing them twice is an unnecessary difficulty.

Massachusetts

Authorizing Law: Mass. Gen. Laws Ann. 22E § 3
Expungement Law: Mass. Gen. Laws Ann. 22E § 15
CODIS Offender Profiles: 80,964

History

State law first authorized the collection of DNA for 33 offenses in 1997, though it is unclear whether juveniles were included.

Juvenile DNA Processing

Qualifying offenses: Only juveniles who qualify as youthful offenders (those tried in juvenile court but sentenced as adults due to their record or severity of the current offense- *Mass. Gen. Laws Ann. 119 §58*) are eligible. All individuals convicted of a crime punishable by imprisonment in a state prison must submit a DNA sample.
Collection agencies and procedures: All samples are collected using blood, and collection agencies include probation, prison, jail, and juvenile detention facilities. Most samples are collected by crime lab personnel. State police are responsible for ensuring that all eligible samples are collected. Samples are processed in the State CODIS Lab, though samples were outsourced until 2008.
Expungement: If a qualifying offense is overturned, offenders are eligible to petition the Superior Court for expungement, provided that either one year has passed since the reversal or the District Attorney has declared that no further prosecution is under consideration. If the individual has no other qualifying offenses, the sample is removed and either destroyed or mailed back to the offender, depending on the nature of the court order. All electronic files are then deleted.

Hit Procedures

Laboratory staff recheck the criminal record, retest the offender sample, and confirm identity using the fingerprint collected at sample collection. Following verification, a formal letter is generated.

Challenges and Lessons Learned

Laws relating to juveniles in the state were originally unclear, leading to confusion in implementation. Confirming hits has proven more complicated for juvenile offenders, as it requires an extra step of accessing juvenile records.

Appendix D: State Synopses

Michigan

Authorizing Law: Mich. Comp. Laws Ann. §§ 28.171-28.176, 750.520m, 791.233d, 712A.18k, 803.225a, 803.307a
Expungement Law: Mich. Comp. Laws Ann. § 28.176
CODIS Offender Profiles: 283,687

History

Juveniles were first included in 2002. As of July 2009, juvenile violent felony arrestees have been included.

Juvenile DNA Processing

Qualifying offenses: Qualifying offenses for juveniles "found responsible" include an enumerated list of felonies and sexual misdemeanors. Adult and juvenile arrestees must give samples for 22 violent felonies. Adults also must submit samples for all felonies.
Collection agencies and procedures: Samples are collected prior to sentencing via buccal swab by the county sheriff, other law enforcement agency, or court administration; arresting agencies are responsible for arrestee samples. Samples are processed in the State CODIS Lab within a month of receipt and entered into the CODIS database.
Expungement: An individual can request expungement if the original conviction or adjudication is reversed, as long as there are no pending appeals and no other qualifying offenses on record. No expungements have been requested to date. Arrestee samples can be removed upon receipt of a written request from the investigating agency or prosecutor that DNA will no longer be needed for a criminal investigation or prosecution, or if the arresting offense was never filed, was dismissed, or resulted in acquittal.

Hit Procedures

When a hit occurs, the State CODIS Lab retests the sample, confirms the qualifying offense, runs the fingerprints on record to confirm identity, determines the status of the involved case, and notifies agencies if the information will aid the investigation. The lab processes approximately 50 hits per month.

Challenges and Lessons Learned

There is inconsistency between fingerprinting and DNA sample requirements: For several offenses, DNA is required but fingerprinting is optional, and a criminal history is only created when fingerprints are collected.

Minnesota

Authorizing Law: Minn. Stat. Ann. § 609.117
Expungement Law: 609A.01
CODIS Offender Profiles: 99,077

History

Juveniles were first included in 1989 for the same offenses as adults. Juvenile arrestees were later included, but this law was overturned in 2006.

Juvenile DNA Processing

Qualifying offenses: Qualifying offenses are the same for juveniles and adults and include all felonies and offenses arising out of the same set of circumstances as a qualifying felony.
Collection agencies and procedures: Local corrections and supervisory agencies are responsible for collecting buccal swabs. Offender samples are processed in the State CODIS Lab within two weeks after confirming that they are not duplicate samples.
Expungement: Offenders are responsible for initiating expungement through the courts. When the lab receives an order to expunge, the lab destroys the samples, underlying data, and associated profile.

Hit Procedures

When a hit occurs, the lab confirms the qualifying offense before reporting on the match.

Challenges and Lessons Learned

The lab reported receiving fewer samples than are eligible due to funding and limited staff time allocations for collecting agencies.

Appendix D: State Synopses

Montana

Authorizing Law: Mont. Code Ann. § 44-6-103
Expungement Law: Mont. Code Ann. § 44-6-107; Mont. Code Ann. § 41-5-216(4)
CODIS Offender Profiles: 16,031

History

Juveniles were initially included in 1995 for specified sexual and violent offenses, but juvenile authorization laws have not expanded with adult authorization expansions.

Juvenile DNA Processing

Qualifying offenses: Juveniles are only authorized for select sexual and violent offenses; adults are included for all felonies.
Collection agencies and procedures: Samples are collected via buccal swab by collection agencies, including detention facilities, sheriff's offices, probation, and parole. Processing occurs in the State CODIS Lab, which has a small backlog.
Expungement: The county attorney is responsible for initiating expungement by notifying the Department of Justice when a conviction or adjudication is reversed. Juvenile DNA records are specifically exempted from being sealed with other juvenile records. Upon receipt of an expungement request, the lab will remove the profile from CODIS, delete administrative records, and return the sample to the submitting agency.

Hit Procedures

Upon receiving a hit, the lab will rerun the sample to verify the profile, check the fingerprints, and confirm qualifying offenses.

Challenges and Lessons Learned

Juvenile records are not included in the criminal history database, so the State CODIS Lab must call the court or juvenile probation and parole office to verify both fingerprints and qualifying offenses before reporting a hit.

New Hampshire

Authorizing Law: N.H. Rev. Stat. Ann. §§ 651-C:1, C:7
Expungement Law: N.H. Rev. Stat. Ann. § 651-C:5
CODIS Offender Profiles: 3,209

History

Juveniles were included in the original laws for sex offenders in 1996. Collection did not begin until 2001, when a crime lab was established. When violent felonies were included in 2003, there was an unsuccessful legal challenge to exclude juveniles.

Juvenile DNA Processing

Qualifying offenses: Qualifying offenses are the same for juveniles and adults, and include enumerated sexual and violent offenses.
Collection agencies and procedures: Samples are collected using buccal swabs from detention centers, juvenile justice field offices, probation, and parole. Samples are processed in the State CODIS Lab.
Expungement: An offender may request expungement upon reversal of conviction or adjudication with a court order. If there are no other qualifying offenses, the DNA sample and identifying information are destroyed, and the profiles are removed from CODIS. DNA records are explicitly authorized to be retained and not expunged when a juvenile reaches the age of adulthood.

Hit Procedures

For both juveniles and adults, samples are rerun, and fingerprints are verified. Qualifying offenses are only confirmed for adults following a hit, using criminal history databases; juvenile offenses cannot be confirmed.

Challenges and Lessons Learned

Even though there is no process for confirming juvenile offenses, the lab is still able to report juvenile hits due to a mistake clause (*§ 651-C:4 Sec III)* written into the legislation freeing the laboratory of liability for erroneous collection, entry, or use of entries made in good faith.

Appendix D: State Synopses

New Jersey

Authorizing Law: N.J. Stat. Ann. § 53:1-20.20
Expungement Law: N.J. Stat. Ann. § 53:1-20.25
CODIS Offender Profiles: 214,502

History

DNA authorization laws were expanded in 1997, effective 1/1/98, to include juveniles adjudicated delinquent for specific sex offenses.

Juvenile DNA Processing

Qualifying offenses: Qualifying offenses are now the same for juvenile and adult offenders and include sex offenses, violent crimes, those found not guilty by reason of insanity, and all offenses with a sentence of 6 months or greater.
Collection agencies and procedures: The Department of Corrections, county corrections, the juvenile justice commission, and county sheriffs are responsible for collecting buccal swabs. The CODIS Compliance Unit ensures that all eligible samples are collected. Samples are analyzed within the State CODIS Lab.
Expungement: Pursuant to the DNA Database and Databank Rules, N.J.A.C. 13:81-6.1, offenders must petition the court for expungement following the reversal and dismissal of the qualifying offense and notification from the prosecutor in the relevant county to perform an expungement order. Following verification that no other qualifying offenses exist, records, identifiable information, and samples are then destroyed. Juveniles are eligible for administrative removal if their case is dismissed following probation.

Hit Procedures

Following a hit, the lab verifies the qualifying offense, retests the sample, and identifies the individual involved.

Challenges and Lessons Learned

There was a legal challenge to including juveniles in the system, but inclusion was upheld.[37] There have been no significant challenges to processing juvenile samples.

Ohio

Authorizing Law: Ohio Rev. Code Ann. § 2152.74
Expungement Law: Ohio Rev. Code Ann. § 2151.356
CODIS Offender Profiles: 359,515

History

Juveniles have been included in authorizing laws since 1995.

Juvenile DNA Processing

Qualifying offenses: Juveniles and adults have the same qualifying offenses, including all felonies and misdemeanors that arise out of the same set of facts as specified sexual, violent, and property offenses.
Collection agencies and procedures: Juvenile samples are usually collected at the Department of Youth Services or an appropriate detention or probation center via buccal swab. As of 2009, all samples were outsourced, with a plan to transition to in-lab processing within the year. As of September 2010, all offender samples are processed in-house. Collection processes are documented in statute.
Expungement: Only juvenile DNA records are eligible for expungement; adults can only have their DNA records sealed. However, general sealing orders do not apply to juvenile DNA. Upon receipt and verification of a court order to expunge juvenile adjudication records, information is removed from all databases, and the sample is destroyed.

Hit Procedures

The State CODIS Lab confirms the qualifying offense and the fingerprint on record and reanalyzes the sample before reporting a match.

Challenges and Lessons Learned

The state has not faced any particular challenges regarding juvenile DNA collection. At the time of the interview, the state was working to integrate a flag into the criminal history records to indicate that a sample had been collected. As of September 2010, the flag, which reads "DNA is registered in the Ohio DNA databank," had been added to the offender's CCH.

[37] See A.A. v. Attorney General, 189 N.J. 128, 914 A.2d 260 (2007)

Appendix D: State Synopses

Oregon

Authorizing Law: Or. Rev. Stat. § 419C.473
Expungement Law: Or. Rev. Stat. § 181.085
CODIS Offender Profiles: 116,433

History

Since 1994, juveniles qualifying as "youth offenders" have had DNA samples on file.

Juvenile DNA Processing

Qualifying offenses: The qualifying offenses for juveniles are authorized separately, but the scope of collection is the same as for adults- all felonies and select sexual misdemeanors.
Collection agencies and procedures: Samples are collected via buccal swab from county-level detention facilities and the state Youth Authority. Upon receipt, the State CODIS Lab has the fingerprint and qualifying offense checked by ID Services. The lab is currently in the process of transitioning from mostly outsourcing samples to mostly in-house processing.
Expungement: Individuals can initiate expungement upon reversal of conviction or adjudication by receiving a court order. The sample, physical evidence, and individual information are destroyed.

Hit Procedures

When a hit occurs, the lab confirms the name, fingerprint, and qualifying offense. For approximately one-third of juveniles, the lab must call the Youth Authority or juvenile supervisor to confirm the offense.

Challenges and Lessons Learned

The state stressed the importance of having good contact with the juvenile oversight agency for verifying identity and offenses, a process that requires additional patience for juveniles. To eliminate problems with verifying qualifying offenses, the state recommends clearly establishing which agency will be responsible for collection and verifying that the juvenile is qualified for collection.

Pennsylvania

Authorizing Law: Pa. Stat. Ann. 44 §§ 2303, 2316
Expungement Law: Pa. Stat. Ann. 44 § 2321
CODIS Offender Profiles: 227,092

History

Juveniles and adults were included in the original 1996 law authorizing collection for serious violent crimes.

Juvenile DNA Processing

Qualifying offenses: Qualifying offenses are the same for juveniles and adults, and include all felonies and two violent or sexual misdemeanors.
Collection agencies and procedures: Samples are collected via buccal swab, and the collection facilities are responsible for ensuring compliance. Collection facilities include detention, probation, and parole. Samples are analyzed in the State CODIS Lab.
Expungement: Following the reversal of the conviction or adjudication and dismissal of the case, individuals submit a written request and court order to the State CODIS Lab. Expungement cannot be sought on grounds that the conviction or adjudication occurred prior to enactment of the statute.

Hit Procedures

When a hit occurs, the lab reanalyzes the sample, checks the fingerprints, and verifies qualifying offenses in the criminal history.

Challenges and Lessons Learned

The state did not report any challenges to juvenile DNA sample collection or use.

Appendix D: State Synopses

South Carolina

Authorizing Law: S.C. Code Ann. § 23-3-620
Expungement Law: S.C. Code Ann. § 23-3-660
CODIS Offender Profiles: 147,945

History
Both juveniles and adults were included in the original 1998 law.

Juvenile DNA Processing
Qualifying offenses: Offenses are the same for juveniles and adults, and include all felonies and select sexual misdemeanors. Collection can also be required by court order for any offense. Adults must also submit DNA if arrested for one of these qualifying offenses.
Collection agencies and procedures: Samples are collected using blood by the Department of Juvenile Justice. Samples are all processed in the State CODIS Lab.
Expungement: If a conviction or adjudication is reversed, set aside, or vacated, individuals can send a written expungement request with the court order to the State CODIS Lab. Records, identifiable information, and samples are then destroyed. The individual's criminal history is checked prior to expungement to ensure that there are no other qualifying offenses.

Hit Procedures
When a hit occurs, the lab confirms that the DNA profile, fingerprints, and samples are all correctly attributed to the offender.

Challenges and Lessons Learned
The lab has not encountered any significant challenges with juvenile DNA processing or use.

South Dakota

Authorizing Law: S.D. Codified Laws §§ 23-5A-1, 23-5A-4
Expungement Law: S.D. Codified Laws §§ 23-5A-28 to 23-5A-31
CODIS Offender Profiles: 23,872

History
Samples were first collected for adults and juveniles arrested for sex offenses between July 1990 and June 1997; the law contracted in 1997 to include only those convicted of a sex offense. In 2000, adults and juveniles had samples collected if they were convicted of a 'crime of violence'. In 2003, the law was modified to include all persons convicted of a felony or one sexual misdemeanor. The current law was enacted in 2008.

Juvenile DNA Processing
Qualifying offenses: Offenses are the same for juveniles and adults and include all felonies and enumerated sexual misdemeanors. Adult felony arrestees must submit DNA for qualifying offenses.
Collection agencies and procedures: Samples are collected using buccal swabs by juvenile detention centers and other law enforcement agencies. Sample analysis is outsourced, and processing time varies by grant cycle.
Expungement: If the conviction or adjudication is reversed and the case is dismissed, individuals can send a written request and court order to the State CODIS Lab to have records, identifiable information, and samples expunged.

Hit Procedures
When a hit occurs, the lab reanalyzes the sample and reviews the criminal history to confirm the qualifying offense.

Challenges and Lessons Learned
Juveniles are not included in the criminal history databases, so the lab contacts the submitting agency to confirm their conviction or adjudication. Juvenile fingerprint records are also inaccessible to the lab.

Appendix D: State Synopses

Tennessee

Authorizing Law: Tenn. Code Ann. § 40-35-321
Expungement Law: Internal laboratory policy
CODIS Offender Profiles: 115,366

History

The state began collecting DNA from juveniles adjudicated for six specific felony offenses in 1991.

Juvenile DNA Processing

Qualifying offenses: The qualifying offenses for juveniles are more restricted than for adults and include six enumerated offenses. Juvenile arrestees only have DNA collected if they obtain paperwork confirming that they will be processed through adult court.
Collection agencies and procedures: The CODIS indexing lab sends collection kits to the sheriff's departments, state prisons, health departments, and any other agency upon request. Juveniles can have samples collected using buccal swabs from any of these agencies upon adjudication. There is no formal process for confirming that all qualified juveniles have samples collected.
Expungement: For arrestees, once the lab is notified by the court system and the lab's legal department confirms the order, the lab removes the profile from CODIS and destroys the sample and all identifying information. For juveniles, the legal department is notified if the juvenile has been adjudicated and wants the records to be expunged.

Hit Procedures

Once the lab registers a hit, the sample is reanalyzed. The lab then sends a letter to the law enforcement agency, along with the relevant criminal records; however, if a juvenile's records are sealed, the lab does not have access to them.

Challenges and Lessons Learned

The lab recommends informing all relevant juvenile justice agencies of the DNA collection laws to ensure that all qualified juveniles have samples collected.

Texas

Authorizing Law: Tex. Gov't Code Ann. § 411.148, 411.1481, 411.150
Expungement Law: Tex. Gov't Code Ann. § 411.1471, 411.151; Texas Family Code 511,691
CODIS Offender Profiles: 499,809

History

The DNA collection laws have included adjudicated juveniles since they were first enacted. In 2009, the laws were expanded to include all juveniles adjudicated of any felony offense.

Juvenile DNA Processing

Qualifying offenses: Juveniles detained in a Texas Youth Commission facility or charged with felony-level offenses are subject to DNA collection. Texas requires DNA collection from adult arrestees, but not juvenile arrestees.
Collection agencies and procedures: DNA is collected from juvenile and adult offenders who enter a correctional facility at booking through a blood sample. For juveniles, DNA collection occurs at a Texas Youth Commission facility. Recently, juvenile probation agencies began collecting DNA from individuals who committed a qualifying offense in another state.
Expungement: Upon court order, obtained at the request of the offender, the State CODIS Lab removes the profile from CODIS and destroys the DNA sample. Juvenile DNA records are also eligible for expungement if juvenile records are sealed.

Hit Procedures

When a hit occurs, the CODIS indexing lab relies on the local lab with the evidence sample to confirm that the case is still active. The CODIS lab then verifies its results and issues a report to the other lab with the offender information. This process can be different for juveniles since the lab does not have access to juvenile records to confirm valid inclusion.

Challenges and Lessons Learned

Labs should ensure they have individual contacts in juvenile detention facilities to troubleshoot any issues with accessing records.

Appendix D: State Synopses

Utah

Authorizing Law: Utah Code Ann. § 53-10-403
Expungement Law: Utah Code Ann. § 53-10-406
CODIS Offender Profiles: 47,374

History
Utah has collected DNA from adjudicated juveniles since 2002.

Juvenile DNA Processing
Qualifying offenses: Qualifying offenses, which are the same for juveniles over 13 and adults, include all felonies and Class A misdemeanors.
Collection agencies and procedures: The juvenile court system, which has multiple offices throughout the state, is responsible for collecting juvenile DNA samples via buccal swab. Case managers in the court system have access to a statewide system that tracks individuals by case number and can check off the DNA collection requirement for each individual. Samples are outsourced for analysis.
Expungement: Offenders may initiate expungement following the reversal of the qualifying conviction or adjudication. Once the lab obtains a signed court order to expunge, the lab removes all identifying information (and replaces it with a comment that the profile was expunged) and destroys the DNA sample and collection card, but leaves the anonymous ID number in CODIS.

Hit Procedures
The lab confirms a hit by the fingerprint associated with the collection card and reanalyzes the sample. In the juvenile system, fingerprints are not collected, so the lab skips this stage for juveniles and informs law enforcement that no fingerprint verification occurred and that verification must be done as part of the investigation.

Challenges and Lessons Learned
Not having fingerprints collected for juveniles is an issue for confirming hits.

Virginia

Authorizing Law: Va. Code Ann. § 16.1-299.1
Expungement Law: Va. Code Ann. §§ 19.2-310.7, 19.2-310.2:1
CODIS Offender Profiles: 307,070

History
The state has been collecting DNA from juveniles adjudicated of a felony offense since 1993.

Juvenile DNA Processing
Qualifying offenses: Qualifying offenses, which are the same for adjudicated juveniles over 13 and convicted adults, consist of all felony offenses. While Virginia collects DNA from adult arrestees, it does not collect DNA from juvenile arrestees.
Collection agencies and procedures: Samples are collected by correctional facilities (including juvenile detention facilities) or by the sheriff's offices using standardized kits obtained from the central lab. The Department of Juvenile Justice is required by law to verify that all eligible samples have been collected.
Expungement: Following a reversal and case dismissal, individuals must submit a written request and court order to the State CODIS Lab. For adjudicated juveniles, the lab removes the profile and specimen ID number from the database, destroys the original sample, and ensures that all information has been removed from the database.

Hit Procedures
The lab obtains the sample number and individual information on the collection card to verify qualifying offenses and identity of the individual. If the lab needs access to a juvenile record (as opposed to an adult criminal record), the lab calls a specific person at the relevant juvenile justice agency to verify the qualifying offense.

Challenges and Lessons Learned
Criminal record linkage issues have been a problem for the lab, since it is more cumbersome to confirm a hit from a juvenile. If possible, the lab would advise other states to write a process into law that authorizes labs to access juvenile justice information.

Washington

Authorizing Law: Wash. Rev. Code Ann. § 43.43.754
Expungement Law: Wash. Adm. Code Ann. § 446-75-070
CODIS Offender Profiles: 187,668

History

The law has included juveniles adjudicated of sex offenses since 2002.

Juvenile DNA Processing

Qualifying offenses: The qualifying offenses are the same for juveniles and adults, and include all felonies and select sexual and violent misdemeanors.
Collection agencies and procedures: Samples are collected using buccal swabs. Some juveniles have their DNA collected at intake in a correctional facility, while others have their DNA collected at release. If an individual is not serving time at a correctional facility, his or her DNA is collected by another agency, such as a police department.
Expungement: An individual must submit a notarized request form to have their DNA expunged and must include a court order or other official documentation showing they were found not guilty or were released without conviction or adjudication. When expungement is approved, the lab deletes profiles within CODIS and destroys DNA samples.

Hit Procedures

If the lab is notified of a hit in CODIS, the sample is reanalyzed, and eligibility is confirmed. If lab analysts determine that a sample was mistakenly collected, they may still forward the identifying information to the inquiring law enforcement agency but must then remove the sample from CODIS.

Challenges and Lessons Learned

The state did not report any specific challenges in handling juvenile DNA profiles or samples.

Wisconsin

Authorizing Law: Wis. Stat. Ann. § 165.76; 938.35(15)
Expungement Law: Wis. Stat. Ann. § 165.77
CODIS Offender Profiles: 136,370

History

The DNA collection laws that were enacted in 1993 apply to juveniles adjudicated for sex offenses.

Juvenile DNA Processing

Qualifying offenses: Juveniles qualify for DNA collection for a limited set of sexual crimes or by court order. Adults must submit samples for all felonies and select sexual misdemeanors. New provisions in the statute allow authorities to collect DNA from individuals who "owe" a sample following a court hearing.
Collection agencies and procedures: Samples are collected via buccal swab by the Department of Corrections from individuals under its supervision (mainly adults), by county sheriffs, or at the juvenile court.
Expungement: Individuals are eligible to submit a written expungement request to the state lab with a court order following a reversal or vacating of the original conviction or adjudication. The lab then confirms that there are no additional qualifying offenses. All records, identifiable information, and samples are destroyed.

Hit Procedures

When a hit occurs, the lab sends a memo to the police immediately following hit confirmation, and generates a report at a later point. The lab does not have access to juvenile court records, but it does have access to juveniles' criminal history. The lab can use this information to determine whether it is likely that the individual was adjudicated delinquent for a qualifying offense. If the DNA was collected due to a court order, rather than a qualifying offense, the lab has no way of confirming the eligibility of the sample.

Challenges and Lessons Learned

In response to the discovery that samples from many eligible offenders were not being collected, a special Task Force issued a report on May 17, 2010.[38]

[38] Wisconsin Department of Corrections (2010). *Report and Recommendations of the Wisconsin DNA Task Force*. http://www.wi-doc.com/PDF_Files/DNATask ForceReport.pdf.

URBAN INSTITUTE
Justice Policy Center

Collecting DNA from Juveniles

Annotated Bibliography

Purpose/Effectiveness of DNA Databanks

Bieber, Frederick R. (2006). Turning Base Hits Into Earned Runs: Improving the Effectiveness of Forensic DNA Databank Programs. *Journal of Law, Medicine and Ethics: Symposium, DNA Fingerprinting and Civil Liberties*. 222-233.

> This article focuses on the need for researchers to study the effectiveness of DNA databanks through data collection. Bieber emphasizes that while the initial goal of databanks related to solving violent crimes, it has now expanded to include most felony crimes, including nonviolent (e.g. property) crimes; ultimately, databanks could be useful in solving any crime where recidivism rates are high. Bieber also notes that while DNA databanks might cause measured crime rates to fall, known recidivism rates could also increase (because of the higher rate of offender detection stemming from DNA databank matches). He concludes that the effectiveness of the DNA databanks is unknown and emphasizes that researchers do not know about the outcomes of hits, since a DNA match does not necessarily lead investigators to solve crimes.

Bhati, Avinash. (2010). Quantifying the Specific Deterrent Effects of DNA Databases. Washington, D.C.: The Urban Institute.

> To quantify the effects of DNA databases on reoffending, Bhati analyzed the reoffending patterns of a large cohort of individuals released from Florida Department of Corrections custody between 1996 and 2004. Bhati distinguished between deterrent effects of the DNA database (i.e., its ability to deter crime among individual offenders) and probative effects of DNA evidence (i.e., its ability to produce faster, more certain convictions). The findings suggest that while DNA databases only have a small impact on deterrence, there is significant probative value associated with DNA evidence.

Ferrara, Paul B. and George C. Li. (2004). Creating and Maintaining an Arrestee Database in Virginia - Policy and Practical Aspects. Richmond, VA: Virginia Division of Forensic Science.

> Ferrara and Li discuss the expansion of Virginia's DNA database to include selected arrestees in 2002. Because Virginia decided to include arrestees in the SDIS database before NDIS would accept them, the state required the lab to keep track of arrestee profiles. Even though arrestees are now included in all levels of CODIS, the Virginia crime lab still keeps track of up to date information on case processing; the courts have to notify the Virginia Department of Forensic Science of the final disposition of arrestees so that Virginia can expunge an arrestee sample if the person is not ultimately convicted. Ferrara and Li emphasize that processing DNA from arrestees is better for law enforcement because the profile ends up in database before it would if the lab waited for a conviction to occur. However, they do acknowledge the impact that including arrestees in the database has on lab personnel; if the same staff handle database entry and evidence processing, the lab could become less efficient and potentially be overwhelmed by backlogs.

National Commission on the Future of DNA Evidence. (2002). Using DNA to Solve Cold Cases. Washington, DC: National Institute of Justice.

> This report focuses on the need for law enforcement to understand the value and impact that DNA evidence can have on case clearances. DNA databanks are particularly useful, since they can help law enforcement catch recidivists, solve cases and prevent future crime. The report claims that crime scene profiles (if properly preserved) can be analyzed for years after entry into the databank; therefore, law enforcement agencies are opening cold case squads to look into old cases that could potentially solved through DNA analysis. The report also argues that law enforcement investigators need to understand laws related to DNA evidence, including database inclusion statutes and the implications of DNA evidence at trial. The report concludes that DNA database expansion is based on an understanding that the effectiveness of the database is determined by its size and the type of offenders in it.

Pratt, Travis C., Michael J. Gaffney, Nicholas P. Lovrich and Charles L. Johnson. (2009). This Isn't CSI: Estimating the National Backlog of Forensic DNA Cases and the Barriers Associated With Case Processing. *Criminal Justice Policy Review*: 17(1).

> This study examined unsolved cases in the United States that were likely to benefit from the analysis of DNA evidence. The authors looked at homicides, rapes and property crimes, and identified problems related to proper storing and accurate, timely processing of DNA evidence. The authors note that the main reason that DNA evidence had not been analyzed in these unsolved cases was that law enforcement investigators did not believe that crime labs could process the evidence quickly enough for it to be useful to them. In addition, crime labs

could not afford the personnel, equipment, and facilities that would allow them to increase the number of DNA analyses they could conduct. The authors recommend more federal funding for labs to increase their DNA analysis capabilities.

Benefits for Investigations

Roman, John K, Shannon Reid, Jay Reid, Aaron Chalfin, William Adams and Carly Knight. (2008). The DNA Field Experiment: Cost-effectiveness Analysis of the Use of DNA in the Investigation of High-Volume Crimes. Washington, D.C.: The Urban Institute.

The DNA Field Experiment has shown that DNA evidence can be extremely valuable to law enforcement in their attempts to solve property crimes. The study's main findings are:[1]

- "Property crime cases where DNA evidence is processed have more than twice as many suspects identified, twice as many suspects arrested, and more than twice as many cases accepted for prosecution compared with traditional investigation;
- DNA is at least five times as likely to result in a suspect identification compared with fingerprints;
- Suspects identified by DNA had at least twice as many prior felony arrests and convictions as those identified by traditional investigation;
- Blood evidence results in better case outcomes than other biological evidence, particularly evidence from items that were handled or touched;
- Biological material collected by forensic technicians is no more likely to result in a suspect being identified than biological material collected by patrol officers."

The researchers were able to avoid the lab backlog problem for their experiment. In all five test sites, crime labs processed the treatment cases immediately, whereas the control cases were processed after 60 days. This timely processing ensured that detectives were able to use DNA evidence in the treatment cases, since property crimes in all five jurisdictions tended to go "cold" after 15 days. In treatment cases where biological evidence was present, officers processed the profiles through CODIS. The authors also note that the effectiveness of the DNA databases will increase as more offender profiles are put into them.

Schroeder, David A., and Michael D. White. (2009). Exploring the Use of DNA Evidence in Homicide Investigations: Implications for Detective Work and Case Clearance. *Police Quarterly*: 12(3). 318-342.

Schroeder and White conducted an assessment of the New York City Police Department's use of DNA evidence in homicide cases. Their results showed that NYPD detectives did not collect DNA evidence in over half of their homicide

[1] Quoted from Part I Final Report.

cases. They also determined that in 40% of the cases when detectives did collect DNA evidence, they did not use it before they cleared their cases. During the study period (1996-2003), DNA evidence was collected, analyzed, and made available before a clearance in only 6.7% of cases in the sample. Schroeder and White note that many of the homicide cases in the study fall into one of two categories: “dunkers” and “whodunits” where no physical evidence is found at the crime scene or needed for analysis. “Dunkers” are cases where detectives do not need any forensic evidence to get a clearance; they can prove that their suspect committed the murder through other sources of evidence. In many “whodunit” cases, detectives do not find any forensic evidence at the crime scene that they can use to lead them to the killer.

Wickenheiser, R.A. (2004). The Business Case for Using Forensic DNA Technology to Solve and Prevent Crime. *Journal of Biolaw & Business, 7(3), 34-50.*

In this article, Wickenheiser discusses the financial implications and potential benefits of collecting DNA from all sexual assault cases. His cost-benefit analysis suggests that the estimated costs of processing all the reported sexual assault cases per year, balanced with the potential savings from apprehending suspects early in their offending careers could produce a benefit of 35.2 times the investment. The expansion of the national DNA database, Wickenheiser argues, could bring the United States to an estimated 42 percent success rate, which is similar to that of the United Kingdom. He recommends that a national plan, including standardized training and lab protocols, education for law enforcement and first responders, and proper reviews and oversight of the system, be developed.

Processing/Use of Offender DNA

Cole, Simon A., and Michael Lynch. (2006). The Social and Legal Construction of Suspects. *Annual Review of Law and Social Science*: 2. 39-60.

This article assesses whether or not DNA databanks could have a lasting impact on policing. Investigators can search the database without a suspect (a process the authors refer to as “database trawling”), thus allowing DNA databanks to become intelligence sources. Cole and Lynch refer to the implications this has for the “social construction” of suspects, since those in DNA databanks are essentially “pre-suspects.” Databanks have the potential to make suspects (those that come up in cold hits) or unmake suspects (those who are suspected and then exonerated through database searches). The authors also emphasize that there are ways to address inequities in this process; a universal databank that includes everyone, not just suspect populations, would ensure that the database is not subject to the disparities present in arrests and prosecutions.

Donnelly, Peter, and Richard D. Friedman. (1999). DNA Database Searches and the Legal Consumption of Scientific Evidence. *Michigan Law Review*: 97(4). 931-984.

In this article, Friedman and Donnelly discuss the issues with disclosing at trial that a suspect match occurred through a DNA databank hit. They describe the difference between a DNA match that confirms a suspect and a DNA match that makes someone a suspect. In this sense, databanks alter how DNA evidence affects case outcomes. Friedman and Donnelly connect this issue with databank matches to a general problem of the court system deferring to expert opinion without understanding the potential flaws in their testimony.

Hibbert, Michelle. (1999). DNA Databanks: Law Enforcement's Greatest Surveillance Tool? *Wake Forest Law Review*: 34.

This article emphasizes the need to clarify who should have their DNA put in databanks. Hibbert argues that if databanks are only used for solving violent crime, then only violent criminals should be in the database. She states that it is important to have consistency among databanks across states, and fears that the databanks could eventually expand to the entire population. Hibbert also focuses on the need to limit access to databanks. The DNA samples should only exist for law enforcement purposes; states need to be aware of the potential privacy intrusion for offenders and their family members and keep samples confidential. Hibbert also emphasizes the need for quality control mechanisms that maintain the quality of the DNA in the databanks so that evidence can be used in trial and is not minimized due to a match from a degraded sample.

National Institute of Justice. (2004). DNA in “Minor” Crimes Yields Major Benefits in Public Safety. *In Short: Criminal Justice Solutions*. Washington, D.C.: Office of Justice Programs.

In assessing crimes where offenders have high recidivism rates (property crime in particular), NIJ argues that DNA databanks could be particularly useful. However, this requires the timely collection and analysis of crime scene evidence. The article cites the example of New York: of first 1,000 hits in the state’s databank, 82% of the offenders were in the databank because of convictions on “lesser crimes.”

Scope of Collection

Cronan, John P. (2000) The Next Frontier of Law Enforcement: A Proposal for Complete DNA Databanks. *American Journal of Criminal Law*: 28. 119-156.

Cronan argues that DNA databanks should include everyone in the country, not just offenders. He outlines the shortcomings of the current system, highlighting the fact that not enough profiles are in the databases and that there is an extensive backlog of samples (meaning that profiles are not put into the databanks quickly enough). These problems make the databanks not as useful as they could be for law enforcement. He believes that profiles of the entire U.S.

population should be in the databank; the process of DNA collection could be done at birth, and there could be safeguards in place to protect the privacy of the profiles (only law enforcement would have access, and the databank would de-identify genetic information). Cronan acknowledges the potential Fourth Amendment issue with his proposal. The inclusion of everyone in the databank would amount to suspicion-less searches; his response to this claim is that the overwhelming law enforcement interests in databanking amount to the "special needs" scrutiny that the Supreme Court requires. Cronan also claims that the costs associated with expanding the database to the entire population would be justified, and not as significant as they seem. The overall benefit to society, and the benefit to law enforcement investigative techniques, would override the costs. In addition, the deterrence value of databanks would reduce crime, and therefore lower corrections costs prevalent throughout the country's criminal justice system.

Dale, W. Mark, Owen Greenspan, and Donald Orokos. (2006). DNA Forensics: Expanding Uses and Information Sharing. Sacramento, CA: The National Consortium for Justice Information and Statistics.

Dale, Greenspan, and Orokos examine how forensic investigators' use of DNA evidence has changed over the years, thanks in large part to technological improvements that allow more cases to be solved. However, their report also emphasizes that there are numerous economic issues and privacy concerns associated with DNA use, particularly those connected to processing backlogs in labs and the lack of linkage between CODIS and criminal history records (mainly due to privacy advocates' concerns). The authors argue that the DNA database system needs to be reformed in order to become more efficient and effective, while still protecting individuals' privacy.

Kaye, D.H., and Michael E. Smith. (2003). DNA Identification Databases: Legality, Legitimacy, and the Case for Population-Wide Coverage. *Wisconsin Law Review*: 413.

Kaye and Smith argue that a population-wide DNA database would be a fairer and more useful system than the current DNA databank system that only includes convicted offenders' and arrestees' DNA. The authors claim that their proposed system would be far more useful in deterring crime and in exonerating innocent people, and there would be no bias in it system (referring specifically to the racial disparities prevalent in arrests and convictions, and therefore in the DNA databanks). However, Kaye and Smith also acknowledge the legal issues associated with taking DNA from people who have not necessarily committed a crime, referring explicitly to the potential violation of the Fourth Amendment.

Rothstein, Mark A., and Meghan K. Talbot. (2006). The Expanding Use of DNA in Law Enforcement: What Role for Privacy?. *Journal of Law, Medicine and Ethics*: 34(2). 153-164.

Rothstein and Talbott discuss the implications of how DNA databases have expanded without any examination of potential effects on privacy and legal rights. There has been no scientific evidence quantifying the effectiveness of the databases; the only evidence that examines the effectiveness is compiled by crime labs (where researchers only look at "cold hits" or "investigations aided"). There is no clear definition of terms in these examinations, and no evidence that DNA actually helps with case clearances. Rothstein and Talbott also discuss the United Kingdom's use of DNA "dragnets" (voluntary samples which are collected from individuals who might fit a general suspect description, but are not arrested). There has been no independent study of the implications of including those profiles in DNA database, or law enforcement's use of those profiles. [See further discussion in *Privacy Concerns* section.]

Taylor, Ralph B., John S. Goldkamp, Doris Weiland, Clairissa Breen, Marie R. Garcia, Lawrence A. Presley and Brian Wyant. (2007). Revise Policies Mandating Offender DNA Collection. *Criminology and Public Policy*: 6 (4).

This article argues that the expansion of DNA databases undermines their deterrence value. Because the expansion of the database has created significant delays in uploading the DNA profiles to CODIS, offenders do not face any risk of being detected and apprehended soon after they commit a crime. The authors discuss the stated aims of the DNA database, which include identifying possible perpetrators and solving crimes, excluding suspects, detecting recidivists and deterring potential offenders. The authors also note that in many states, crime labs are responsible for uploading offenders' DNA profiles into the database and for processing physical DNA evidence for law enforcement investigators. The backlog in processing offender profiles could impact their work in processing evidence, or vice versa. The authors recommend that expansion of the DNA databases should be stopped, arrestees' and misdemeanants' samples should be removed, and that the primary focus should be reducing the backlog.

Backlogs

Lovrich, Nicholas, Travis C. Pratt, Michael J. Gaffney, Charles L. Johnson, Christopher H. Asplen, Lisa H. Hurst and Timothy M. Schellberg. (2003). National Forensic DNA Study Report. Pullman, WA: Washington State University.

This report concludes that while DNA can be used for crime solving and the exoneration of offenders, there is a need to reduce the backlog prevalent in crime labs in the United States. Databases also need to include nonviolent offenders in order to be as useful to investigators as they possible can be. The authors cite reports that many of the database hits for violent crimes come from profiles of offenders who were convicted of nonviolent offenses.

Nelson, Mark. (2010). Making Sense of DNA Backlogs – Myths vs. Reality. Washington, D.C.: National Institute of Justice.

In this special report for NIJ, Nelson discusses the connection between the DNA backlogs and the use of DNA in solving cases. There are two backlogs related to DNA samples – one backlog is evidence samples that need to be processed for particular cases, and the other backlog is convicted offender and arrestee samples that need to be inputted into CODIS. According to Nelson, the casework backlog stems from the fact that law enforcement have been collecting more forensic evidence at more crime scenes, due in part to increased awareness of DNA's potential in identifying suspects and in part to improved technology that allows more evidence to be collected and analyzed. The CODIS backlog is the result of expanding collection laws, particularly those related to arrestee DNA. The article concludes by discussing NIJ's DNA backlog reduction program that exists to reduce both the casework and offender sample backlogs.

Zedlewski, Edwin, and Mary B. Murphy. (2006). DNA Analysis for 'Minor' Crimes: A Major Benefit for Law Enforcement. *NIJ Journal*: 253.

Zedlewski and Murphy claim that DNA evidence can be extremely useful only if backlog problem is remedied. There are backlogs of DNA evidence collected during case investigations and DNA profiles from known offenders that need to be entered into searchable databases. While many states have statutes which authorize the collection of DNA samples from certain types of convicted offenders, most of them have significant backlogs. The authors claim that there "substantial numbers" of offenders samples that have not been collected or put into the database, and estimate that the "backlog includes as many as 300,000 unanalyzed DNA samples from offenders convicted of crimes, with more than 500,000 samples yet to be taken." As of 2006, biological samples from suspects and arrestees were analyzed within 5 days, whereas crime scene analysis took approximately 24 days. Despite the problems with backlogs, the authors argue the database can be extremely useful; in property crime cases with no suspect, hits often come from CODIS (the authors cite New York as an example). They also reduce costs in the criminal justice system; if law enforcement officers can get a hit in the database, they do not have to spend time and resources tracking down leads to find suspects.

Expungement

Kimmelman, Jonathan. (2000). Risking Ethical Insolvency: A Survey of Trends in Criminal DNA Databanking. *Journal of Law, Medicine and Ethics*: 28(3). 209-221.

Kimmelman discusses the scope of DNA databanking and the issues that arise from its growing expansion. He claims that current laws and statutes (as of 2000) "inadequately protect persons' right to privacy, bodily integrity, and presumptive innocence." Kimmelman emphasizes that these concerns are particularly problematic when arrestees and juveniles are included in DNA databanks. Instead of including arrestee DNA profiles in a database, he argues, investigators

should only use arrestee DNA to compare it to evidence in the particular crime in question. [See further information in the *Implications of Juvenile Justice Policy for DNA Collection* section.]

Messner, Steven. (2007). Law Enforcement DNA Database: Jeopardizing the Juvenile Justice System Under California's Criminal DNA Collection Law. Journal of Juvenile Law: 28(159).

This article examines juvenile DNA collection and expungement issues in the state of California. Messner argues that even though California has the same DNA collection requirements for adults and juveniles, juveniles are treated more harshly under the state's DNA Act. He argues that juveniles should not have sample taken if they plea to a felony but are ultimately adjudicated for a misdemeanor under the Welfare and Institutions Code. While the state permits juveniles to get their DNA profile expunged from CODIS if they have their adjudication record sealed, Messner argues that the expungement statute places an undue burden on juveniles who were adjudicated of a misdemeanor and should never have given a sample in the first place.

Shah, Riya S. (2007). Juvenile Records Expungement: A Guide for Defense Attorneys in Pennsylvania. Philadelphia, PA: Juvenile Law Center.

This report, which was developed as a guide for juvenile defense attorneys, discusses how the expungement of court records can benefit juveniles adjudicated delinquent. The author emphasizes that expungement provides juveniles with second chance (and a clean record), and discusses the best practices of getting records expunged through court process and after adjudication. The report briefly speaks to the expungements of DNA records, which the author argues are open to legal challenge on the grounds that mandatory testing for convicted juvenile felons is punitive (since rehabilitative principles are still supposed to govern the juvenile justice system).

Privacy Concerns

Kaye, David H. (2001, Fall). Two Fallacies About DNA Databanks for Law Enforcement. *Brooklyn Law Review*: 67.

This article focuses on two points related to the use of DNA databanks. Kaye argues that it is wrong to limit DNA databanks to only cover sexual and violent offenses; including nonviolent offenders in the database increases the likelihood of getting a match and also deters further criminal behavior (once offenders know they are in the database). In arguing that it is important to tailor "standards of identification" to protect people's privacy, his second point emphasizes the need to design databases to include as many individuals as possible (not just convicted violent offenders) but still be consistent with Fourth Amendment.

Kimmelman, Jonathan. (2000). The promise and perils of criminal DNA databanking. *Nature Biotechnology*: 18.

> Kimmelman discusses various issues with DNA databases in this article. He notes that the early database inclusion laws focused primarily on sex offenders (because of their high rate of recidivism). There are numerous privacy and legal concerns associated with the DNA database; Kimmelman notes that in the future, DNA in the databases could be used for non-law enforcement purposes (for example, for research purposes). He also compares the United States' inclusion laws to other countries. Other countries' laws range from more extensive (like the United Kingdom, which holds arrestees' and juveniles' profiles for long periods) to more cautious (like France, which only includes convicted sex offenders in its database). Some countries, like Canada, also place a higher emphasis on privacy restrictions on the database.

Krimsky, Sheldon, and Tania Simoncelli. (2011).Genetic Justice: DNA Data Banks, Criminal Investigations, and Civil Liberties. New York, NY: Columbia University Press.

> Krimsky and Simoncelli discuss their privacy concerns associated with the expansion of DNA databanks to include people who have been arrested and not necessarily charged with or convicted of a crime. The authors examine the constitutional, ethical, and sociopolitical implications of expanded DNA collection and compare the trends of DNA collection in the United States to other countries around the world. Krimsky and Simoncelli specifically examine the implications of collecting DNA from juveniles, familial searching in the DNA database, and law enforcement's collection of DNA samples from suspects who volunteer them (commonly referred to as "DNA dragnets").

Rothstein, Mark A., and Meghan K. Talbott. (2006). The Expanding Use of DNA in Law Enforcement: What Role for Privacy?. *Journal of Law, Medicine and Ethics*: 34(2). 153-164.

> The authors discuss the privacy concerns that the databases raise, including potential familial hits, the low number of loci in a hit, and the potential of conducting DNA searches outside of law enforcement databases (for example, health care DNA databases). This method of searching indicates a potential expansion of databanking outside of law enforcement agencies. Moreover, the authors argue, states do not always have statutes that detail expungement procedures; of those states that do specify expungement, most of them require individuals to petition to have their DNA removed from the database. The authors conclude that limitations must be placed on the expansion of the database, so that the use of it is balanced with privacy concerns. [See further information in *Scope of Collection* section].

Implications of Juvenile Justice Policy for DNA Collection

Buck Willison, Janeen, Daniel P. Mears, and Jeffrey A. Butts. (2010). The U.S. Juvenile Justice Policy Landscape. In U.S. Criminal Justice Policy: A Contemporary Reader, edited by Karim Ismaili. Sudbury, MA: Jones & Bartlett Learning.

This book chapter examines the state of juvenile justice policy nationally to investigate the various reforms to the juvenile justice system over the past twenty years. When juvenile arrests for violent crime reached an all-time high in 1994, lawmakers responded by implementing a host of reforms that profoundly altered and by some accounts "criminalized" juvenile justice policy and practice by making the juvenile justice system more like the adult system. This chapter investigates this claim and explores whether juvenile justice today is uniformly punitive in its orientation or whether it reflects the founding tenets of the original juvenile court. The authors draw on analyses from a review of recent legislation and practice and a national survey of juvenile justice practitioners, and find evidence that juvenile justice today clearly represents a mix of punitive and rehabilitative approaches and that states vary dramatically in the extent to which they lean toward greater punitiveness or rehabilitation.

Bureau of Justice Statistics. (1996). National Conference on Juvenile Justice Records: Appropriate Uses in Criminal and Noncriminal Justice Proceedings. Washington, D.C.: Office of Justice Programs.

This BJS conference summary speaks to the problems that stem from public access to juvenile court records and proceedings. Some justice officials argued that this is a "fundamental shift that threatens to undermine the foundations of the juvenile justice system as it has existed for nearly 100 years." Others claim that increasing access to records and treating juvenile and adult court records in the same way can be a more effective way to reduce juvenile crime, and that it is possible to strike a balance between open access to these records and protecting juveniles' privacy.

Butts, Jeffrey A. and Ojmarrh Mitchell. (2000). Brick by Brick: Dismantling the Border Between Juvenile and Adult Justice. *Criminal Justice*: 2. 167-213.

This article reviews the origins and evolution of juvenile justice policy in the United States, and examines the changes that the authors argue have dismantled the border between the juvenile justice and criminal justice system. In addition to summarizing existing research on the topic, Butts and Mitchell discuss the various legislative changes to state and federal laws that led the juvenile justice and criminal justice systems to converge. The authors conclude by cautioning that researchers and practitioners should focus less on juvenile transfers to the adult criminal justice system and more on the punitive shifts within the juvenile justice system.

Fagan, Jeffrey. (2008). Juvenile Crime and Criminal Justice: Resolving Border Disputes. *Juvenile Justice*: 18(2). 81-118.

In this article, Fagan assesses how transfer laws (which allow the juvenile court to transfer juvenile defendants to adult court) impact reoffending for juveniles. Fagan determines that recidivism rates for juveniles in states that process juveniles in adult court are not lower than juvenile recidivism rates in states where transfers to adult court are rare. Thus, Fagan argues, transfer laws are not an effective means of reducing juvenile crime or reoffending.

Feld, Barry C. (2009). Procedural Rights in Juvenile Court: Competence and Consequences. Philadelphia, PA: Annual Meeting, American Society of Criminology.

Feld emphasizes the importance of treating juveniles differently than adults during adjudication. The juvenile justice system was designed to emphasize rehabilitation over punishment because juveniles, particularly youth and mid-adolescents, are not necessarily legally competent (in understanding the rights and the impact of their actions). Feld discusses three main components of the issue in this paper: one, the impact of developmental psychological research on juveniles' *Miranda* rights; two, the lack of competency among juveniles in waiving their rights; and three, the decision of the juvenile justice system to adjudicate juveniles delinquent instead of offering them a right to a jury trial. He assesses how these decisions ultimately lead a juvenile to plead guilty (which is not necessarily best for them).

Gottfredson, Michael R., and Travis Hirschi. (1990). A General Theory of Crime. Palo Alto, CA: Stanford University Press.

In their highly influential book A General Theory of Crime, Gottfredson and Hirschi introduce the "self-control" theory of crime desistance. This theory suggests that an individual's propensity to commit crime is dependent on that individual's own ability to control his or her criminal instincts; social controls are not nearly as influential. The authors argue that delinquent behavior is largely determined early in one's youth, and that justice policy is unlikely to affect individuals' decisions to continue to commit or desist from crime throughout their life course.

Huizinga, David, Terence Thornberry, Kelly Knight, Peter Lovegrove, Rolf Loeber, Karl Hill, and David P. Farrington. (2007). Disproportionate Minority Contact in the Juvenile Justice System: A Study of Differential Minority Arrest/Referral to Court in Three Cities. Washington, D.C.: The Office of Juvenile Justice and Delinquency Prevention.

This report is based a multi-site community study of delinquency and disproportionate minority contact (DMC) with the juvenile justice system. The authors examined factors that might affect DMC at the police contact and court referral level, and found that there was clear evidence of DMC – meaning that there was a greater portion of minorities who are contacted or referred – across two of the three sites included in the study. This DMC was not explained by

differences in the offending behavior of different racial groups, and the study suggests that the levels of delinquent offending only have marginal effects on the level of DMC in the juvenile justice system.

Kimmelman, Jonathan. (2000). Risking Ethical Insolvency: A Survey of Trends in Criminal DNA Databanking. *Journal of Law, Medicine and Ethics*: 28(3). 209-221.

Kimmelman notes that in the U.S., the juvenile justice system treats defendants differently from adults; however, this is typically not the case when it comes to DNA databanking. Despite the fact that the juvenile justice system places a greater emphasis on rehabilitation, many states do not have specific expungement policies related to juveniles' DNA. [See further information in the *Expungement* section.]

Levitt, Mairi and Floris Tomasini. (2006). Bar-coded children: an exploration of issues around the inclusion of children on the England and Wales National DNA Database. *Genomics, Society and Policy*: 2(1). 41-56.

Levitt and Tomasini question why juveniles as young as ten years old are treated as adults in the UK's DNA database when they aren't under the law. This article summarizes their study, which used focus groups of children and their parents to assess the maturity level of children aged 10-12 (an age group that is included in the UK's National DNA Database). Their findings show that children of that age have "limited responsibility and independence" and therefore should not be treated as an adult under the law, including legal statutes pertaining to inclusion in the UK's National DNA Database.

Moffitt, Terrie. (1993). Adolescence-Limited and Life-Course Persistent Antisocial Behavior: A Developmental Taxonomy. *Psychological Review*: 100. 674-701.

In this article, Moffitt argues that there are two groups of juvenile delinquents: one group that is likely to engage in antisocial and sometimes criminal behavior at all stages of their life, and another group that only engages in such behavior during adolescence. Moffitt claims that the "life-course-persistent" theory of antisocial behavior applies to the first group, and suggests that their involvement in antisocial behavior will be pathological throughout their lives. However, the theory of "adolescence-limited" antisocial behavior supports Moffitt's claim that most youth who display antisocial behavior as juveniles will not continue to do so after adolescence.

Mulvey, Edward P. *Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders.* (Juvenile Justice Fact Sheet). Washington DC: Office of Juvenile Justice and Delinquency Prevention Retrieved from. http://www.ncjrs.gov/pdffiles1/ojjdp/230971.pdf. Accessed April 13, 2011.

This fact sheet describes the findings from the Pathways to Desistance Study, a multi-site study where researchers are following juveniles ages 14-18 who commit serious offenses for seven years after adjudication to determine their reoffending patterns. Findings suggest that most youth who commit felonies greatly reduce their offending over time, regardless of the justice system's response to the individual; the vast majority (over 90 percent) of youth including in the study reported decreased or limited illegal activity during the three years following their case disposition. This study also indicates that there are two key factors that predict which juveniles are more likely to desist from crime: lower levels of substance abuse and greater stability in their daily routines.

Puzzancherra, Charles, Benjamin Adams and Melissa Sickmund. (2010). Juvenile Court Statistics, 2006-2007. Washington, D.C.: The National Center for Juvenile Justice.

Using data from the National Juvenile Court Data Archive, the authors describe the characteristics of the nearly 1.7 million delinquency cases that were processed in juvenile court in the United States between 2006 and 2007. The report profiles the demographics of the juvenile defendants and their offense types, and highlights the delinquency trends over the past three decades. In providing an overview of the delinquency case outcomes, the authors note that only 56% of them cases are actually petitioned, and among those only 62% are adjudicated delinquent. Of those adjudicated delinquent, 25% are placed in detention, 56% are supervised by probation, and 19% receive an alternative sanction (see page 58 for more details).

Sampson, Robert J. and John H. Laub. (2003). Life-Course Desisters? Trajectories of Crime Among Delinquent Boys Followed to Age 70. *Criminology*: 41(3). 301-340.

This article builds off of Sampson and Laub's (1993) theory of "age-graded life-course" criminal behavior. This theory is based on the notion that while individuals' behavior tends to be continuous throughout their lives, it might change based on individual experiences or social and environmental circumstances. For this article, Sampson and Laub discuss findings from their study of the life course of delinquent males between ages 7 and 70; the findings from this study suggest that crime declines with age for all types of offenders, regardless of their risk level and anticipated trajectory in youth. The authors conclude with a discussion of the desistance processes that can impact criminal behavior among youth, and argue that it can be difficult to predict which youth will reoffend over their life course.

Snyder, Howard N. and Melissa Sickmund. (2006). Juvenile Offenders and Victims: 2006 National Report. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention.

This OJJDP report includes sections on juvenile population characteristics, characteristics of juvenile victims and offenders, the juvenile justice system

structure and process (examining laws and sentencing policies specific to the juvenile justice system and juveniles tried as adults), arrest trends for juveniles, statistics on juvenile offenders in court and correctional facilities. For this report, using data from the National Longitudinal Survey of Youth, Snyder and Sickmund tracked juveniles who reported that they offended at ages 16-17, and found that after one year, only 25% reported offending again. The report also provides findings on the rate of recidivism for juvenile offenders in a multi-state comparison study, which suggest that the one year re-arrest rate for juveniles released from state detention is 55% and the one year re-conviction/re-adjudication rate is 33%.[2]

Scott, Elizabeth S. and Lawrence Steinberg. (2008). Adolescent Development and the Regulation of Youth Crime. Juvenile Justice: 18(2). 15-33

In this article, Scott and Steinberg examine the evolution of the laws and rules regulating juvenile court in the United States. While the juvenile justice system was originally based on rehabilitative principles, towards the end of the 20th century lawmakers began to treat juvenile offenders in the same manner in which they treated adult offenders. Scott and Steinberg argue that a developmental model to treat adolescent offenders as distinct from both juveniles and adults would allow both the juvenile and adult criminal justice systems to function as effectively as they should in reducing crime.

Prepared for the Department of Justice, Office of Justice Programs, Grants Policy Office Order # 2008F_08163.

[2] The recidivism data from the Bureau of Justice Statistics (which incorporates individuals released from prison in 15 states in 1994) indicates that adult prisoners have a one year re-arrest rate of 44.1% and a one year re-conviction rate of 21.5%. For more information see: Patrick A. Langan and David J. Levin, "Recidivism of Prisoners Released in 1994," Bureau of Justice Statistics, June 2, 2002.